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STATE OF NEW YORK

The Conservation Law

IN RELATION TO

FISH AND GAME

1916



Class SK 429

Book A 3

1916

STATE OF NEW YORK

17-2705-2

THE
CONSERVATION
LAW

IN RELATION TO
FISH AND GAME

AS AMENDED TO THE
CLOSE OF THE REGULAR SESSION OF

1916

ALBANY
J. B. LYON COMPANY, PRINTERS
1916

SK 429

A 3

1916

STATE OF NEW YORK



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JAN 16 1917

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THE CONSERVATION LAW.

In Relation to Fish and Game.

Being article V of chapter six hundred forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as amended to the close of the regular session of the year 1916.

[NOTE.—Article V, relating to fish and game, was inserted in the Conservation Law by chapter 318, Laws of 1912. All subsequent acts amending particular sections of that article are indicated in brackets at the foot of the sections so amended.]

ARTICLE V.

Fish and Game.

- Part** I. Powers and duties of commission (§§ 150-161).
 II. Game protectors (§§ 165-173).
 III. Ownership; manner of taking; limit; possession; sale and transportation of wild game and fish restricted (§§ 175-182).

- Part** IV. Licenses, hunting and trapping (§§ 185-186).
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VI. Birds (§§ 210-223).
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IX. Fishways (§§ 290-293).
X. Marine fisheries (§§ 300-335).
XI. Private parks (§§ 360-366).
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PART I.

Powers and Duties of Commission.

- Section 150. General powers and duties of commission.
151. Fish culturist.
152. Additional or other protection.
153. Fish and game closes.
154. Power of commission to dispose of fish and game seized.
155. Power to take fish.
156. Power to purchase fish eggs.
157. Power to acquire beaver, deer, moose or elk by gift, purchase or capture.
158. Power to take birds and quadrupeds.
159. License to collect or possess for propagation, scientific or exhibition purposes.

Section 160. Publication of laws relating to fish and game.

161. Observance of rules and regulations; penalty.

§ 150. General powers and duties of commission.

The commission shall have charge, control and management of the propagation and distribution of food and game fish, shell-fish, crustacea, and game. It shall have the conduct and control of all hatching and biological stations and game farms owned, operated or hereafter acquired by the state. The commission shall have charge of the enforcement of all laws for the protection of fish, shell-fish, crustacea, birds and quadrupeds; lands under water which have been or shall be designated, surveyed and mapped out pursuant to law, as oyster beds or shell-fish grounds, and power to grant leases of land under water for shell-fish culture according to law, to make rules regulating the inspection and examination of shell-fish, shell-fish grounds and the buildings used for storage; handling and shipments thereof; the floating of shell-fish; and the removal of shell-fish from beds which are in an unsanitary condition and their deposit upon unpolluted grounds; power to make rules increasing the size of mesh of nets, regulating the transportation, importation, exportation of game, fish, shell-fish and crustacea, and the taking of fish in any manner, other than angling, except as to migratory fish of the sea within

the limits of the marine district; the granting of licenses where the same are prescribed by law, the fixing of fees therefor and terms thereof.

[As amended by chapter 508, Laws of 1913.]

§ 151. Fish culturist. The commission shall appoint a fish culturist who shall have charge under the direction of the commission of the culture of fish and shell-fish in the state. He shall receive an annual salary of four thousand dollars, and his actual and necessary traveling expenses while in the performance of his official duty.

§ 152. Additional or other protection.

1. *Petition for protection.* Ten or more citizens of the state may file with the commission a petition in writing requesting it to give to any species of fish other than migratory food fish of the sea including fish or game birds or quadrupeds, protection or additional protection to that afforded by the provisions of this article. Such petition shall state the grounds upon which such protection is considered necessary, and shall be signed by the petitioners who shall attach their addresses.

2. *Notice of hearings.* If the commission shall after hearing petitioner entertain the petition, it shall hold a public hearing in the locality or county to be affected upon the allegations of such petition at such time and place within the locality or county affected as the commission may determine

within twenty days from the filing thereof. At least ten days prior to such hearing notice thereof, stating the time and place at which such hearing shall be held, shall be advertised in a newspaper to be selected by the commission and published in the counties or county to be affected by such additional or other protection or if less than a whole county, in or near the locality which may be affected. Such notice shall contain a brief statement of the grounds upon which such application is made, and a copy thereof shall be mailed to each petitioner at the address given in such petition at least ten days before such hearing.

3. **Power to grant protection.** If upon such hearing the commission shall determine that such species of fish or game, by reason of disease, danger of extermination or from any other cause or reason, requires such additional or other protection, in any locality or throughout the state, the commission shall have power by order to prohibit or regulate, during the open season therefor, the taking of such species of fish or game. Such prohibition or regulation may be made general throughout the state or confined to a particular part or district thereof and the order shall fix the day when the same shall take effect and the commission shall sign and enter the order in its minute book.

4. **Publication.** At least thirty days before the day fixed for such order to take effect, copies of the

same certified by the secretary to the commission shall be filed in the office of the clerk of each county containing a district or any part of a district to which the prohibition or regulation applies. At least thirty days before such order shall take effect the commission shall cause the same to be published in a newspaper published in each county wherein such prohibition or regulation shall apply.

5. [Repealed by chapter 521, Laws of 1916.]

§ 153. Fish and game closes. The commission may, on the request of a majority of the town board of any town, or a majority of the common council of any city, by order, prohibit or regulate the taking of birds or game on lands set aside, with the consent of the owner or owners thereof, as bird and game refuges for a period of not to exceed ten years. On a like request, when fish have been or shall be placed in waters of a town or of a city at the expense of the state, the commission may by order prohibit or regulate the taking of fish from such waters, for a period of not to exceed three years. At least thirty days before such order shall take effect, a copy of the same certified by the secretary to the commission shall be filed in the office of the clerk of the town or city in which the prohibition or regulation applies. Printed notices at least one foot square that such lands or streams have been closed, shall be posted along the boundaries of the land, or along the shores or banks of the

waters affected not more than fifty rods apart measured along the said boundaries and along said banks.

Any person who shall violate or attempt to violate any such order shall be guilty of a misdemeanor, and shall, upon conviction, be subject to a fine of not to exceed one hundred dollars, or shall be imprisoned for not more than thirty days, or both, for each offense and in addition shall be liable to the penalties hereinafter provided for taking fish, birds or quadrupeds in the close season. An affidavit of the fact of such stocking with fish or of posting such notices or a certification of such facts by a game protector when filed in the office of the commission shall be presumptive evidence of the facts stated therein and a copy of either when certified by the secretary to the commission shall be competent evidence in any action or proceeding for enforcement of any of the provisions of this section.

[As amended by chapter 508, Laws of 1913, and chapter 155, Laws of 1916.]

§ 154. Power of commission to dispose of seizures. Whenever any fish, birds, wild animals or parts thereof, or any devices used in taking the same illegally are found in the possession or under the control of a person contrary to law, said fish, birds, wild animals, or parts thereof, together with the device or devices used in taking the same, shall be seized and confiscated in the name of the state. The commission may dispose of such fish, birds or

wild animals or devices in such manner as it deems proper.

[As amended by chapter 521, Laws of 1916.]

§ 155. Power to take fish. The commission may take fish with nets at such times and in such manner as it may deem proper for the artificial propagation of fish. The commission may also remove, permit or cause to be removed from public or private waters, fish which hinder or prevent the propagation of game or food fish. Such removal shall be effected by any means and under such regulations as the commission may provide. Fish taken under this section may be disposed of and possessed under such regulations as the commission may establish. Any person not in charge of a state net who shall handle or take fish while confined therein, or shall fish within one hundred feet of any leader or net in use by the state shall be guilty of a misdemeanor.

§ 156. Power to purchase fish eggs. The commission may purchase from any person, fish eggs, paying for same in cash, or giving in exchange or in consideration therefor, a percentage of the young fish hatched or produced at any of the fish hatcheries of the state from the eggs so purchased; and the placing of such young fish in waters on lands of such persons shall not be deemed a stocking of such waters with fish by the state, or fish from state hatcheries.

§ 157. Power to acquire beaver, deer, moose or elk by gift, purchase or capture. The commission may acquire by gift, purchase or capture a sufficient number of beaver, deer, moose or elk to stock the Adirondack region, and may care for and yard the same temporarily and liberate them in such region and at such times and places as it deems most conducive to their probable subsistence and increase. Deer may be taken alive at any time by the commission to restock the state's deer parks or to exchange for elk or moose.

§ 158. Power to take birds and quadrupeds. In the event that any species of birds protected by the provisions of section two hundred and nineteen of this article, or quadrupeds protected by law, shall at any time, in any locality, become destructive of private or public property the commission shall have power in its discretion to direct any game protector, or issue a permit to any citizen of the state to take such species of birds or quadrupeds and dispose of the same in such manner as the commission may provide. Such permit shall expire within four months after the date of issuance.

§ 159. License to collect or possess for propagation, scientific or exhibition purposes. 1. The commission may issue a license revocable at its pleasure to any person, permitting the holder to collect or possess fish, aquatic animals, quadrupeds, birds, birds'

nests or eggs for propagation, scientific or exhibition purposes. Before such license is issued, every applicant, except a game protector, duly chartered museum or society incorporated for scientific or public exhibition purposes, or an officer thereof, must file written testimonials from two well known scientific men; pay one dollar for the license and file a bond in the penal sum of two hundred dollars with two responsible sureties, to be approved by the commission, conditioned that he will not violate the provisions of this article or avail himself of the privileges of said license for purposes not herein set forth.

2. The commission may also issue a license revocable at pleasure to any person, permitting such person to possess any species of fish, game birds, aquatic animals or quadrupeds, protected by this chapter, for propagation purposes, upon payment of a license fee of one dollar. The commission may, in its discretion, require a bond from such person, in such sum as the commission may determine, conditioned that he will not avail himself of the privileges of said license for purposes not herein set forth.

The commission may issue permits to enable persons to ship fish, aquatic animals, game and quadrupeds lawfully taken and possessed for propagation, scientific or educational purposes, under such regulations as the commission may prescribe.

Fish, aquatic animals, quadrupeds and game lawfully possessed under this section may be sold, at any

time, by any person receiving a license under this section for propagation, scientific, educational or exhibition purposes only.

Persons receiving a license under this section must report the result of operation thereunder annually to the commission, at the expiration of the license. Such license shall be in force for one year only from the date of issue and shall not be transferable.

[As amended by chapter 508, Laws of 1913 and chapter 92, Laws of 1914.]

§ 160. Publication of laws relating to fish and game. As soon as practicable after the adjournment of the legislature in each year, the commission shall make a compilation of the laws relating to fish and game as amended at the date of such compilation, and properly index the same. Copies of said compilation sufficient in number for the purposes of this section shall be printed in pamphlet form of pocket size, under the direction of the clerks of the senate and assembly, and such clerks shall distribute them as follows: One hundred copies to each senator; fifty copies to each assemblyman. Twenty thousand copies to the commission for general distribution. It shall be the duty of the commission to prepare and issue a syllabus of the said laws and to deliver to county, city and town clerks a supply sufficient for furnishing one copy to each person procuring a hunting or trapping license,

and each such person shall be entitled to one copy of said syllabus.

[As amended by chapter 508, Laws of 1913, and chapter 521, Laws of 1916.]

§ 161. [Repealed by chapter 521, Laws of 1916.]

PART II.

Game Protectors.

Section 165. Number and designation.

166. Rating of game protectors.

167. Game protectors to give bonds.

168. Compensation of game protectors.

169. Powers of game protectors.

170. Records and reports.

171. Special game protectors.

172. Sheriffs and constables.

173. Suits against protectors.

§ 165. Number and designation. The commission shall appoint one hundred and twenty-five game protectors. The commission shall appoint a chief game protector, a deputy chief game protector, twelve division chief protectors, five fisheries protectors, and a protector for the Saint Lawrence river. The chief game protector shall have general supervision and control of all protectors. The positions of chief game protector, deputy chief game protector, division chief protectors, fisheries protectors, the protector for the Saint Lawrence river and the other game protectors provided for by this section shall

hereafter be classified in the competitive class of the classified civil service.

[As amended by chapter 508, Laws of 1913 and chapter 92, Laws of 1914.]

§ 166. Rating of game protectors. The commission shall have power to remove, to suspend without pay, to reduce in rank, to act as a trial board in hearing and passing upon charges, and to rate all game protectors and fisheries protectors on the basis of merit and efficiency, in accordance with the provisions of the state civil service law. It shall rate all protectors on the basis of merit and efficiency in three grades, to be known as the first, second and third grades. Protectors rated in the first and second grades shall not be removed unless furnished with reasons for removal and given a hearing. The commission is empowered to make such rules and regulations as in its judgment are required to secure a proper rating of the protectors, or to carry out the provisions of this section.

§ 167. Game protectors to give bonds. The chief game protector shall give a bond to the people of the state in the sum of one thousand dollars conditioned for the faithful discharge of his duties, with sureties to be approved by the commission. Every game protector shall give a like bond in the sum of five hundred dollars.

§ 168. Compensation of game protectors. The chief game protector shall receive an annual salary of

four thousand dollars. The deputy chief game protector shall receive an annual salary of twenty-four hundred dollars. Each division chief protector shall receive an annual salary of sixteen hundred dollars and his actual and necessary traveling expenses, not exceeding seven hundred and fifty dollars a year. Each fisheries protector shall receive an annual salary of thirteen hundred dollars, and his actual and necessary traveling expenses, not exceeding seven hundred and fifty dollars. Each game protector shall receive an annual salary of nine hundred dollars and his actual and necessary traveling expenses, not exceeding six hundred dollars; provided, however, that each game protector who shall have been rated in the first grade for a full year shall receive increased salary at the rate of fifty dollars per annum, and for each year thereafter in which he shall so qualify he shall receive a like increase until he receives the sum of thirteen hundred dollars per annum, but the commission shall have the power in its discretion, for cause shown, to cancel such increase or any part thereof on the failure of any protector receiving such increase to qualify for the first grade in any year. Game protectors rated in the first grade only shall be eligible for promotion.

[As amended by chapter 318, Laws of 1915, and chapter 521, Laws of 1916.]

§ 169. Powers of game protectors. Game protectors, forest rangers, and fisheries protectors shall enforce all laws relating to fish, birds and quadru-

ped; all laws of boards of supervisors relating to the same; and shall have power to execute all warrants and search warrants issued for a violation of this article; to serve subpœnas issued for the examination and investigation or trial of offenses against any of the provisions of said law; to make search where they have cause to believe that fish, birds or quadrupeds, or any parts thereof, are possessed in violation of law, and without search warrant to examine the contents of any boat, car, automobile or other vehicle, box, locker, basket, creel, crate, game bag or other package, and the contents of any building other than a dwelling house, to ascertain whether any of the provisions of this article or of any law for the protection of fish, shell-fish, birds or quadrupeds have been or are being violated, and to use such force as may be necessary for the purpose of such examination and inspection; and with a search warrant to search and examine the contents of any building or dwelling house; seize all quadrupeds, birds or fish, or any parts thereof possessed in violation of the law, or showing evidence of illegal taking, and seize and confiscate all devices used in taking fish, game or wild animals illegally, and hold the same subject to the order of the commission; to arrest without warrant any person committing a misdemeanor under the provisions of this article in their presence, and take such person immediately before a magistrate having jurisdiction for trial, and to

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exercise such other powers of peace officers, in the enforcement of the provisions of this chapter, or of judgments obtained for violation thereof, as are not herein specifically provided. Any regular or special game protector, fisheries protector, fire superintendent, forest ranger or inspector who shall compromise or settle any violation of the fish and game law out of court, or except as provided by section thirty-six of this chapter, without the order of the commission, shall be guilty of a misdemeanor.

[As amended by chapter 521, Laws of 1916.]

§ 170. Records and reports. The chief game protector and division chief protectors shall make such reports as are required by the commission. Each game protector shall keep a daily record of his official acts, and report the same at the close of each week to the division chief of his division, and similarly report at the close of each month to the chief game protector. The salary and traveling expenses of a game protector shall not be payable except upon the certificate of the chief game protector that such protector has made the required report and properly performed his duty.

§ 171. Special game protectors. The commission may in its discretion appoint special game protectors. Such special game protectors shall hold office during the pleasure of the commission, and shall have the same powers as game protectors, and receive one-half of the fines and penalties less expenses. They shall

make reports as required by the commission. No person shall be eligible for such appointment until he shall have passed a non-competitive examination conducted under authority of the commission.

[As amended by chapter 508, Laws of 1913.]

§ 172. Sheriffs and constables. Peace officers shall have the same powers as game protectors under this article, except the right to search without warrant.

§ 173. Suits against protectors. It shall be the duty of the attorney-general on request of any regular game protector, accompanied with the approval of the commission, to appear in and defend as attorney any action or proceeding prosecuted against the protector for or on account of any act of his done while holding such office and when such act was, in the opinion of the attorney-general, done in discharge of the protector's official duty or in reasonable exercise of his authority.

[New. Inserted by Chap. 508, Laws of 1913.]

PART III.

Ownership; Manner of taking; Limit; Possession;
Sale and Transportation of Wild Game and
Fish Restricted; Penalties.

Section 175. Ownership.

176. Taking, limit, possession, sale and transportation of fish and game restricted.

177. Manner of taking fish and game.

178. Transportation.

179. Transportation, sale, special.

Section 180. Prohibited, sale of certain birds.

181. Presumptive evidence.

182. Penalties.

§ 175. **Ownership.** The ownership of, and the title to all fish, birds and quadrupeds in the state of New York, not held by private ownership, legally acquired, is hereby declared to be in the state. No fish, birds or quadrupeds shall be caught, taken or killed in any manner or at any time or had in possession, except the person so catching, taking or killing or having the same in possession shall consent that the title to such fish, birds and quadrupeds shall be and remain in the state of New York for the purpose of regulating and controlling the use and disposition of the same after such catching, taking or killing, except that the title to such fish, birds or quadrupeds legally taken shall vest in the person so taking or possessing the same, subject to the restrictions and provisions of law.

§ 176. **Taking, limit, possession, sale and transportation of fish and game restricted.** No person shall at any time of the year, pursue, take, wound or kill, in any manner, number or quantity, any fish, quadrupeds or birds protected by law, or buy, sell, offer, or expose the same, or any part thereof, for sale, transport, or have the same in possession except as permitted by this article. Nets except in the marine district, tip-ups, set and trap lines, spears, grappling hooks, naked hooks, snatch hooks, eel weirs

and eel pots shall not be used to take fish except as specifically permitted in this article. Any person aiding in any manner in such prohibited acts shall be deemed to have violated this section.

[As amended by chapter 508, Laws of 1913.]

§ 177. Manner of taking fish and game. 1. Manner of taking game. Game protected by law shall only be taken in the day time after sunrise and before sunset with a gun fired at arm's length, without rest, unless otherwise specifically permitted by this article. A person may take birds and quadrupeds, during the open season therefor, with the aid of a dog, unless specifically prohibited by this article. Any duly organized association for the protection of game may run field trials for dogs at any time upon obtaining written permission from the Conservation Commission.

[As amended by chapter 92, Laws of 1914.]

2. Manner of taking fish. Fish, except migratory food fish of the sea, shall only be taken by angling, unless otherwise specifically permitted by this article. In case any fish or crustacea is unintentionally taken contrary to the prohibitions or restrictions contained in any of the provisions of this article, such fish or crustacea shall be immediately liberated and returned to the water, without unnecessary injury. Whenever any fish under the size limit prescribed by the provisions of this article are received in transportation from another state or country, or

whenever such fish are taken in gill nets, they shall neither be sold, bought or otherwise trafficked in.

[As amended by chapter 508, Laws of 1913.] .

§ 178. Transportation.

Subd. 1. Common carriers. No common carrier or employee of such carrier shall, while engaged in such business, transport as owner of any fish or game or parts thereof of species which may not be lawfully sold at any time. Nor shall such carrier or person knowingly receive or possess the same for shipment for another whether contained in a package or unpacked if no shipping permit is attached as required in this section.

Subd. 2. Transportation and exportation of fish and game lawfully salable. Any person may transport in any manner within this state or from a point within to a point without during the open season therefor, and in any number, wild quadrupeds, birds or fish of species which may be lawfully sold.

Game or fish raised in private hatcheries or preserves and carcasses of birds and mammals from without the United States and which may be lawfully imported and sold, when marked and tagged as provided in part twelve of this article, may be transported within and from a point within to a point without this state in any number and by any means.

Subd. 3. The same; of fish and game not lawfully salable. Any person may transport within this state or from a point within to a point without otherwise

than by common carrier or parcel post and during the open season therefor wild quadrupeds, birds or fish but not more in any one day than the number thereof which may be lawfully taken in one day by one person when of species which may not be lawfully sold at any time except as otherwise provided in section one hundred and ninety hereof.

The taker may transport within this state or from a point within to a point without by common carrier except by parcel post, and during the open season therefor, wild quadrupeds, birds or fish but not more in any one day than the number thereof which he may lawfully take in one day when of species which may not be lawfully sold at any time provided the same or the package containing them shall have attached thereto before shipment, with the blanks properly filled in by him, a shipping permit issued by the commission except as otherwise provided in section one hundred and ninety hereof. The form of such permit shall be determined by the commission.

Subd. 4. Importation of fish and game not lawfully salable. The taker may transport from a point without to a point within the state, during the open season therefor within the state of New York, game or fish of species which may not be lawfully sold, provided such game or fish was lawfully taken and may be lawfully brought from the place where taken; and further provided that the taker accompanies the same; or, the same may be shipped by him by common carrier except parcel post, but in

that case the shipping requirements of subdivision three of this section shall apply.

The taker may transport from a point without to a point within the state, during the closed season therefor within the state of New York, game or fish of species which may not be lawfully sold, or for which there is no open season, provided such game or fish was lawfully taken and may be lawfully brought from the place where taken, and further provided that the taker accompanies the same and shall have with him a license issued by the commission permitting such transportation. Quadrupeds may be shipped by the taker by common carrier, except by parcel post, but in that case the shipping requirements of subdivision three of this section shall apply. Such game or fish when so transported may be possessed at any time.

Subd. 5. The same; of fish and game lawfully salable. Importation and transportation by any means and in any number during the open season therefor of wild game or fish the sale of which is permitted by this article shall be lawful except as otherwise expressly provided therein.

Subd. 6. Shipping permits; prohibition; limitation. Only holders of hunting and trapping licenses shall be entitled to shipping permits described in subdivision three of this section, for shipment of quadrupeds or birds taken in this state. No person shall be entitled to receive nor shall he apply for more than six such permits in any calendar year nor shall

any person to whom such a permit has been issued transfer the same in any manner to any other person nor shall any other person use the same for shipping fish or game nor shall any person make any false statement in applying for such a permit nor shall one person use more than six thereof for shipping fish and game in any one calendar year.

[As amended by chapter 508, Laws of 1913, and chapter 521, Laws of 1916.]

§ 179. Transportation, sale; special. The provisions of section one hundred and seventy-eight hereof shall not apply to transportation of fish and game for propagation purposes nor to transportation of the head, hide, feet or fur of quadrupeds or of the plumage or skin of game birds legally taken and possessed and the same may be transported at any time. The head, hide and feet of quadrupeds legally taken and possessed may be bought and sold at any time.

[As amended by chapter 508, Laws of 1913.]

§ 180. Prohibited; sale of certain birds. The dead bodies of birds belonging to all species or sub-species, native to this state, protected by law or belonging to any family, any species or sub-species of which is native to this state and protected by law shall not be sold, offered for sale, or possessed for sale for food purposes within this state whether taken within or without this state, except as provided by sections three hundred and seventy-two and three hundred and seventy-three.

§ 181. Presumptive evidence. Possession of quadrupeds, birds or fish or of part thereof, during the time when the taking of the same in this state is prohibited, or when the possession of the same after the close of the open season is not permitted, shall be presumptive evidence that the same was unlawfully taken by the possessor.

Quadrupeds, birds or fish, lawfully taken and possessed in one part of the state, may be transported by the taker as provided by section one hundred and seventy-eight of this chapter and may be possessed by the taker in any part of the state for the same period of time during which they may be lawfully possessed at the place where taken.

[As amended by chapter 508, Laws of 1913, and chapter 92, Laws of 1914.]

§ 182. Penalties. 1. Unless a different or other penalty or punishment is herein specially prescribed, a person who buys, sells, offers for sale, takes, possesses, transports or has in possession for sale or transportation any fish, bird or quadruped, shell-fish or crustacean in violation of any of the provisions of the conservation law in relation to fish and game, or who violates or who fails to perform any duty imposed by any of the provisions of said law, or any lawful order, rule or regulation adopted by the commission, is guilty of a misdemeanor; and in addition thereto is liable as follows: to a penalty of sixty dollars and an additional penalty of twenty-five dollars for each fish, bird, quadruped, shell-fish

or crustacean, or part of fish, bird, quadruped, shellfish or crustacean bought, sold, offered for sale, taken, possessed, transported or had in possession for sale or transportation in violation thereof.

2. A person who buys, sells, offers for sale, takes, possesses, transports or has in possession for sale or transportation any deer, elk, moose, caribou, antelope, beaver or part of any such animal in violation of any of the provisions of said law or of any lawful rule or regulation of the commission, is guilty of a misdemeanor, and in addition thereto is liable as follows: to a penalty of one hundred dollars and an additional penalty of one hundred dollars for each deer, elk, moose, caribou, antelope, beaver or part of any such animal bought, sold, offered for sale, taken, possessed, transported or had in possession for sale or transported contrary to law.

3. A person who violates any of the provisions of sections two hundred and forty-five, two hundred and forty-seven or two hundred and forty-eight thereof, shall be guilty of a misdemeanor, and in addition thereto is liable as follows: to a penalty of five hundred dollars, and an additional penalty of ten dollars for each fish taken, killed or possessed in violation thereof.

4. Any public officer who fails to perform any duty imposed by any of the provisions of said law or of any lawful rule or regulation of the commission is guilty of a misdemeanor, unless otherwise specifically prescribed herein, and in addition thereto is liable to a penalty of one hundred dollars.

5. A person who violates an provision of part eleven shall be guilty of a misdemeanor, and shall be liable to exemplary damages in the sum of twenty-five dollars for each offense or trespass to be recovered by the owner of the lands, or hunting or fishing rights thereon, with costs of suit, in addition to the actual damages, all of which may be recovered in the same action. The consent in writing of such owner to hunt or fish on said lands during the open season shall be a defense to a prosecution under this section.

[As amended by chapter 508, Laws of 1913, and chapter 521, Laws of 1916.]

PART IV.

Licenses: Hunting and Trapping.

Section 185. Hunting and trapping license.

186. Penalties.

§ 185. Hunting and trapping license. Subd. 1. License required. No person or persons shall at any time hunt, pursue or kill with a gun, any wild animals, fowl or birds or take with traps or other devices any fur bearing animals, or engage in hunting or trapping except as herein provided, without first having procured a license so to do, and then only during the respective periods of the year when it shall be lawful.

Subd. 2. Application; penalties. Said license shall be procured from any county, city or town clerk in the following manner, to wit: The applicant shall fill out a blank application to be furnished

by the commission through the clerk of each county, city or town, stating name, age, occupation and place of residence and post-office address of applicant, also whether a citizen of the United States or an alien and such other facts or descriptions as may be required by the commission. Said application shall be subscribed and sworn to by the applicant before any officer authorized to administer oaths in the state of New York. Any false statement contained in such application shall render the license null and void. Any person who shall make any false statement in an application for a license, shall be deemed guilty of perjury, and, on conviction thereof, shall be subject to the penalties provided for the commission of perjury.

Subd. 3. Fees. Said applicant, if a resident of the state for over six months and a citizen, shall pay to the clerk countersigning and issuing the license the sum of one dollar as a license fee together with the sum of ten cents as the fee of the county, city or town clerk for issuing such license, and if a non-resident of the state or an unnaturalized person or an alien, resident or non-resident, shall pay to the clerk countersigning and issuing license the sum of ten dollars together with the sum of fifty cents as a fee to the clerk.

Subd. 4. Disposition of fees. The license fees above provided for shall be remitted by the city and town clerks on the first Tuesday of each

month to the county clerk of the county, with duplicate schedules setting forth the name and residence of each licensee and the serial number of and the amount paid for each license issued. Such license fees, less three per centum thereof which the county clerk is hereby authorized to retain for his compensation, and the license fees received by the county clerk for issuing licenses from his office, less three per centum thereof for such compensation, shall belong to the state and shall be remitted to the commission on the second Tuesday of each month with a duplicate of said schedule, and the fees so received by the commission shall be remitted by the commission to the state treasurer as are fines and penalties.

Subd. 5. Contents and power under. Said license shall be issued in the name of the commission, and be sealed with the seal of the county, city or town in which the same is issued and be countersigned by the clerk issuing the same. Every license issued shall be signed by the licensee in ink on the face thereof. It shall entitle the person to whom issued to hunt, pursue and kill game animals, fowl and birds and trap fur bearing animals within the state at any time when or place where it shall be lawful to hunt, pursue, kill and take such game animals, fowl and birds in this state.

Subd. 6. Carrying and exhibiting same. No person to whom a license has been issued shall be en-

titled to take wild animals, fowl or birds, or trap fur bearing animals in this state unless at the time of such taking he shall have such license on his person, and shall exhibit the same for inspection to any protector or other officer or other person requesting to see the same. Such licensee shall also wear in a conspicuous place on his clothing a button to be furnished by the commission through the clerks issuing licenses. Buttons shall be uniform in size and at least two inches in diameter and shall bear a number corresponding to the number of the license delivered to the applicant and such other matter as may be determined by the commission. The failure of the licensee at all times while hunting, trapping or taking wild animals, fowl or birds, to wear such button in a conspicuous place on his clothing shall cause a forfeiture of his license. Such person shall surrender upon demand his license and button to any game protector or other person duly authorized by the commission to receive the same. No other or additional penalty than the forfeiture of his hunting or trapping license, as herein provided, shall be suffered by a licensee failing to wear such button. But such forfeiture shall not operate to prevent a person from procuring another license as provided in this section. The provisions of this section with respect to the issuance of and the wearing of a button shall take effect January first, nineteen hundred and seventeen.

Subd. 7. **Termination.** Such license shall be void after the thirty-first day of December next succeeding its issuance.

Subd. 8. **Exception.** Provided that the owner or owners of farm land, and their immediate family or families occupying and cultivating the same, or the lessee or lessees thereof and their immediate family or families who are actually occupying and cultivating the same, shall have the right to hunt, kill and take game or trap fur bearing animals on the farm land of which he or they are the bona fide owners or lessees, during the season when it is lawful to kill and take the same, without procuring such resident license; and further provided that minors under the age of sixteen years shall not be required to take out a license to trap fur bearing animals.

Subd. 9. **Alteration.** Any person who shall at any time alter or change in any material manner or loan or transfer to another, any license issued as aforesaid, shall be deemed guilty of forgery in the second degree, and, on conviction thereof, shall be punishable as provided in case of forgery in the second degree.

Subd. 10. **Prosecution by individuals.** All prosecutions for a violation of the provisions of this article relating to licenses may be brought by any person upon order of the commission in the name

of the people of the state of New York against any person or persons violating any of the provisions of this article, so far as it relates to licenses, before any court of competent jurisdiction; and it is hereby made the duty of all district attorneys to see that the provisions of this section are enforced in their respective counties, and said district attorneys shall prosecute all offenders on receiving information of the violation of any of the provisions of this section; and it is hereby made the duty of all sheriffs, deputy sheriffs, constables and police officers to inform against and prosecute all persons who, there is reasonable cause to believe, are guilty of violating any of the provisions of this section. Nothing herein shall prevent the commission from prosecuting persons for violation of this section.

Subd. 11. **Proceeds of actions.** All moneys recovered in any penal action under this chapter, in so far as it relates to licenses, shall be remitted by the person or court recovering the same to the commission; one-half of the amount recovered in any penal action under this section, in so far as it relates to licenses, after all disbursements and expenses in relation to the same, including attorney's fees, shall have been paid, shall be paid to the person filing the complaint in such action by the state treasurer on approval of the commission, unless such person is a regular game protector.

Subd. 12. **Costs.** All bills for costs, disbursements and attorney's fees in any action or proceeding under this article relating to licenses shall be duly verified, presented to the commission, audited by said commission and paid on its approval by the state treasurer to the person entitled to the same.

Subd. 13. **Form of license.** The form of the license shall be determined and the license blank prepared by the commission, and by it furnished through the county clerks of the several counties of the state to the city and town clerks.

Subd. 14. **Clerk's reports.** On the thirty-first day of December of each year the city and town clerks shall detach the stubs of licenses issued and forward the same securely attached to a report of the number issued and the amount of license money received to the county clerk of the county, whose duty it shall be to see that proper returns are made to him by all city and town clerks in his county, and to return to the commission all such stubs and reports with a final report recapitulating and tabulating the total number of licenses of all kinds issued in his county in the calendar year.

Subd. 15. **Clerks reimbursed for expenses.** The county clerk shall be reimbursed by the state for postage and expressage used in distributing licenses

to city and town clerks and for his monthly reports required to be made to the commission; his bills therefor shall be presented, audited and paid as herein provided for other payments.

[As amended by chapter 508, Laws of 1913, and chapters 297 and 521, Laws of 1916.]

[Former section 186 repealed by chapter 508, Laws of 1913.]

§ 186. Penalties. [Repealed by chapter 521, Laws of 1916.]

§ 188. Nonresident fishing license. Except as hereinafter provided, no person, except a bona fide resident of this state for at least thirty days immediately prior to such taking, shall take any fish by angling in any of the fresh waters under the jurisdiction of the state of New York forming a part of the state boundary or through which the state boundary runs or shall engage in fishing in such waters without first having procured a license so to do. Said license shall be procured in the manner provided in section one hundred and eighty-five hereof. The applicant shall pay to the clerk the sum of two dollars as a license fee therefor, together with the sum of fifty cents as a fee to the clerk; provided, however, that a nonresident person under the age of sixteen years or a woman may take fish, by angling, without obtaining a fishing license. The provisions of section one hundred and eighty-five in so far as the same are applicable to licenses shall apply to all licenses issued under this section. If

a resident of this state may lawfully fish in such part of said boundary waters as are not within the jurisdiction of the state of New York without being required to obtain a fishing license from the state or country having jurisdiction over the said waters, then a resident of such state or country may take fish in such part of said boundary waters as are within the jurisdiction of the state of New York without obtaining the nonresident fishing license provided for herein.

[Added by chapter 223, Laws of 1915; amended by chapter 522, Laws of 1916.]

PART V.

Quadrupeds.

Section 190. Wild deer; open season; limit; manner of taking.

191. Possession of wild deer or venison.

192. Deer; open season, special.

193. Dogs to be licensed.

194. Wild moose, elk, caribou and antelope.

195. Black, gray and fox squirrels; open season; limit.

196. Hares and rabbits; open season; limit; sale.

197. Beaver; close season.

198. Mink, raccoon and sable; open season.

199. Skunk.

200. Propagation of fur bearing animals permitted.

Section 201. Muskrat; open season.

202. Land turtles.

203. Penalties.

§ 190. Wild deer; open season; limit; manner of taking. 1. Open season. Only wild deer having horns not less than three inches in length may be taken from October first to November fifteenth, both inclusive, and in wholly inclosed deer parks and in the counties of Clinton, Essex, Franklin, Fulton, Hamilton, Herkimer, Jefferson, Lewis, Oneida, Oswego, Saratoga, St. Lawrence, Warren and Washington.

[As amended by chapter 521, Laws of 1916.]

2. Limit. A person may take two such wild deer in an open season, and the taker may transport, when accompanying the same, or possess for that purpose one carcass or part thereof at any one time, or he may transport the same as provided by section one hundred and seventy-eight.

[As amended by chapter 92, Laws of 1914.]

3. Manner of taking. Wild deer may be taken only on land. No jacklight or other artificial light, trap, saltlick, or other device to entrap or entice deer shall be used, made or set, nor shall any deer be taken by aid or use thereof. Deer shall not be hunted, pursued or killed by any dog of either sex.

[As amended by chapter 508, Laws of 1913, and chapter 521, Laws of 1916.]

§ 191. Possession of wild deer or venison. Wild deer or venison lawfully taken may be possessed from

October first to November twentieth, both inclusive. A person may possess such deer or venison from November twenty-first to February first, both inclusive, provided a license so to do shall first be obtained from the commission. Every person obtaining such license shall pay to the commission a fee of one dollar. Deer or venison so possessed shall at all times be marked or tagged in such manner as the commission may provide. If possession of deer is obtained for transportation after October first and before midnight of November sixteenth, it may lawfully remain in the possession of a common carrier the additional time necessary to deliver the same to its destination. Possession of deer or venison, or any part thereof, from November sixteenth to February first, both inclusive, shall be presumptive evidence that the same was unlawfully taken.

[As amended by chapter 508, Laws of 1913, and chapter 92, Laws of 1914, and chapter 521, Laws of 1916.]

§ 192. **Deer, open season, special.** Only wild deer having horns not less than three inches in length may be taken in Ulster county and in the towns of Neversink, Cohecton, Tusten, Highland, Lumberland, Forestburg, and Bethel, and all that section of the towns of Mamakating and Thompson, lying south of the Newburgh and Cohecton turnpike, in Sullivan county, and the town of Deerpark in Orange county, from November first to November fifteenth, both inclusive.

[As amended by chapter 508, Laws of 1913.]

§ 193. Dogs to be licensed. No dog of either sex shall be taken into the Adirondack or the Catskill Park, or into forests inhabited by deer, or harbored or possessed therein, unless the owner shall first obtain a license for such dog from the commission, and pay a fee of one dollar therefor. The license shall be issued by the commission in its discretion and under such rules and regulations as it may deem advisable and shall terminate with the calendar year in which issued. A metal tag marked with a number corresponding to the number of the license shall be issued with the said license, and shall be attached to a collar and shall be at all times worn by the dog so licensed.

Dogs of either sex, licensed as herein provided, shall not run at large in the Adirondack or the Catskill Park or forests inhabited by deer, unaccompanied by the owner.

Any act committed or done contrary to the provisions of this section, or the neglect to perform any duty provided therein, shall be deemed a violation thereof for which the owner shall be liable.

Any person may and it shall be the duty of every game protector to kill any dog of either sex pursuing or killing deer, and no action for damages shall be maintained against the person for such killing. The prohibitions of this section shall not apply to dogs upon lands actually farmed or cultivated by the owner of such dog, or within the limits of an incorporated village or town, or a community

having a resident population of not less than one hundred individuals.

[Old section repealed, new section added by chapter 521, Laws of 1916.]

§ 194. Wild moose; elk; caribou and antelope. There shall be no open season for wild moose, elk, caribou and antelope; but they may be brought into the state for breeding purposes. The flesh or any portion of any such animal may be possessed or transported by the owner thereof provided such animal was killed by the owner thereof, in a private park within the state, and further provided that the provisions of section three hundred and seventy-two in so far as the same are applicable are in all respects complied with.

[As amended by chapter 521, Laws of 1916.]

§ 195. Black, gray and fox squirrels; open season; limit.

1. Open season. Black, gray and fox squirrels may be taken and possessed from October first to November fifteenth, both inclusive, except on Long Island, where they may be taken and possessed from November first to December thirty-first, both inclusive. No person shall take black, gray or fox squirrels within the corporate limits of any city or village.

2. Limit. A person may take five such squirrels, either all of one kind or partly of each, in one day.

[As amended by chapter 508, Laws of 1913.]

§ 196. Hares and rabbits; open season; limit; sale; breeding.

1. **Open season.** The open season for varying hares and cottontail rabbits shall be from October first to January thirty-first, both inclusive, except on Long Island where the open season for varying hares and cottontail rabbits shall be from November first to December thirty-first, both inclusive. The use of ferrets is at all times prohibited, except that the commission may by resolution permit ferrets to be used in particular counties. The owners or occupants of inclosed or occupied farms and lands or a person duly authorized in writing by such owner or occupant may take except by use of ferrets in any manner at any time and in any number varying hares and cottontail rabbits which are injuring their property. Except in counties where the use of ferrets is permitted by the conservation commission the possession of ferrets afield shall be presumptive evidence of their illegal use.

2. **Limit.** A person may take six varying hares or cottontail rabbits either all of one kind or partly of each in one day.

3. **Sale.** Varying hares and cottontail rabbits may be bought and sold during the open season for the taking thereof and when brought from without the state, may be bought and sold at any time and in any number.

4. **Breeding.** Varying hares and cotton-tail rabbits when bred in captivity may be bought and sold for food purposes during the close season therefor, provided a license so to do shall have first been obtained from the commission, upon the payment to it of a license fee of five dollars a year. Varying hares and cotton-tail rabbits so bred may be bought and sold for food purposes during the close season, provided the same shall first have been tagged with an indestructible tag or seal which shall be supplied by the commission under such rules and regulations as it deems advisable.

[Subd. 4 added by chapter 521, Laws of 1916.]

[As amended by chap. 521, Laws of 1916.]

See Additional Protection Orders.

§ 197. **Beaver; closed season.** No person shall take or possess beaver at any time or molest or disturb any wild beaver or the dams, houses, homes or abiding places of same, except as permitted in section one hundred and fifty-eight.

[As amended by chapter 521, Laws of 1916.]

§ 198. **Mink; raccoon and sable; open season.** Mink, raccoon and sable may be taken either in the daytime or at night and in any manner and possessed from November tenth to March fifteenth, both inclusive.

[As amended by chapter 508, Laws of 1913, and by chapter 92, Laws of 1914, and chapter 521, Laws of 1916.]

§ 199. **Skunk.** Skunk may be taken either in the daytime or at night and in any manner, but they

shall not be taken from holes or dens by digging, smoking or the use of chemicals, and they may be possessed from November tenth to February tenth, both inclusive. Skunks which are injuring property or have become a nuisance may be taken at any time in any manner.

[As amended by chapter 508, Laws of 1913, and by chapter 92, Laws of 1914.]

§ 200. Propagation of fur bearing animals permitted. All species of fur-bearing animals protected by this chapter may be kept alive in captivity at all times for purposes of propagation and sale only, provided a license so to do shall first have been obtained from the commission. Every person obtaining such license shall pay the commission the sum of five dollars as a license fee. No fur bearing animals shall be thus kept which are taken wild during the close season for such fur-bearing animals, and such fur-bearing animals so kept shall not be disposed of in any way during the close season.

[As amended by chapter 508, Laws of 1913, and chapter 92, Laws of 1914.]

§ 201. Muskrat; open season. Muskrat may be taken in any manner, except as herein prohibited, day or night, and possessed from November tenth to April twentieth, both inclusive. Muskrat houses shall not be molested, injured or disturbed at any time. The taking of muskrats by shooting is prohibited.

[As amended by chapter 147, Laws of 1913, chapter 508, Laws of 1913, and chapter 92, Laws of 1914, and chapter 521, Laws of 1916.]

§ 202. Land turtles. Taking, killing or exposing for sale of all land turtles or tortoises, including the box turtle and the wood turtle, is hereby prohibited.

§ 203. [Repealed by chapter 521, Laws of 1916.]

PART VI.

Birds.

Section 210. Game birds defined.

211. Anatidæ or water fowl, open season, limit, manner of taking.

212. Water fowl, open season, manner of taking, special.

213. Rallidæ; open season, limit.

214. Gallinæ or upland game birds, open season, limit.

215. Upland game birds, open season, limit, special.

216. Limicolæ or shore birds, open season, limit.

217. Shore birds, open season, special.

218. Antwerp or homing pigeons.

219. Certain wild birds protected.

220. Destroying or robbing nests.

221. Snares, nets, and traps.

222. Game shall not be taken on certain public lands.

222-a. Game not to be taken from an automobile.

223. Penalties.

§ 210. Game birds defined. For the purpose of this act the following only shall be considered game birds.

The anatidæ or water fowl, commonly known as geese, brant, swans and river and sea ducks;

The rallidæ, commonly known as rails, American coots, mud hens and gallinules;

The gallinæ, or upland game birds, commonly known as wild turkeys, grouse, prairie chickens, pheasants, partridges and quail.

The limicolæ, or shore birds, commonly known as woodcock, snipe, plover, surfbirds, sandpipers, tattlers and curlews.

§ 211. Anatidæ or water fowl; open season; limit; manner of taking.

1. **Open season.** Water fowl, wild and domestic, may be taken from September sixteenth to January tenth, both inclusive. They may be possessed from September sixteenth to January fifteenth, both inclusive. There shall be no open season for wood duck and swan.

2. **Limit.** A person may take during the open season, not to exceed twenty-five water fowl in the aggregate of all kinds in one day. Whenever two or more persons are occupying the same boat, battery or blind, not to exceed forty water fowl in the aggregate of all kinds may be taken in one day by such persons.

3. **Manner of taking.** Water fowl may be taken during the open season from the land, from a blind or floating device used to conceal the hunter (other

than a sail or power boat) from a rowboat, when the same is within fifty feet of the shore or a natural growth of flags or in pursuit of wounded birds. Flocks of ducks shall not be pursued in fresh water so as to drive them away from any neighborhood.

[Re-enacted without change, as amended by chapter 508, Laws of 1913; amended by chapter 521, Laws of 1916.]

§ 212. Water fowl; open season; manner of taking; special.

1. Open season. Water fowl on Long Island and the waters adjacent thereto may be taken from October first to January tenth, both inclusive.

2. Manner of taking. Water fowl may be taken by aid of any floating device other than sailboats or power boats, at any distance from shore on Long Island Sound, Shinnecock, Gardiner and Peconic bays, during the open season therefor, and except from October first to October nineteenth, both inclusive, in Great South Bay west of Smith's Point and east of the Nassau-Suffolk county line.

§ 213. Rallidæ; open season; limit.

1. Open season. Rails, American coots, mud hens and gallinules may be taken and possessed from September sixteenth to December thirty-first, both inclusive.

2. Limit. A person may take during the open season not to exceed fifteen of such birds in the

aggregate of all kinds in one day. Whenever two or more persons are occupying the same boat or blind, not to exceed twenty of such birds shall be taken in the aggregate of all kinds in one day by such persons.

§ 214. *Gallinæ* or upland game birds; open season; limit. Upland game birds may be taken as follows, and when so taken may be possessed during the open season therefor and for an additional period of the five days next succeeding the said open season.

[As amended by chapter 521, Laws of 1916.]

1. Quail. There shall be no open season for quail before October first, nineteen hundred and eighteen.

2. Grouse or partridge. October first to November thirtieth, both inclusive. A person may take not to exceed four grouse or partridge in one day and twenty in the open season.

[See Additional Protection Orders.]

3. Wild pheasants. On the last two Thursdays in the month of October and the first two Thursdays in the month of November and possessed during the period of time between the first open Thursday in October and the last open Thursday in November, inclusive. Only wild male pheasants may be taken. A person may take and possess not to exceed three wild male pheasants in the open season.

[See Additional Protection Orders.]

4. **Partridge.** There shall be no open season for Hungarian or European gray legged partridge.

[As amended by chapter 508, Laws of 1913, and chapter 92, Laws of 1914.]

§ 215. **Upland game birds; open season; limit: special.** Quail, pheasants, and grouse may be taken on Long Island from November first to December thirty-first, both inclusive. A person may take not to exceed ten quail, six male pheasants and four grouse in any one day and fifty quail, thirty-six male pheasants and twenty grouse, in the open season on Long Island.

[As amended by chapter 508, Laws of 1913, and chapter 521, Laws of 1916.]

§ 216. **Limicolæ or shore birds; open season; limit.** Shore birds may be taken as follows, and when so taken may be possessed during the open season therefor and for an additional period of the five days next succeeding the said open season.

1. **Woodcock.** October first to November fifteenth, both inclusive. A person may take not to exceed four woodcock in one day and twenty in the open season.

2. **Snipe, plover, surfbirds, sandpipers, tattlers and curlews.** September sixteenth to November thirtieth, both inclusive. A person may take not to exceed fifteen shore birds in the aggregate of all kinds in one day. Whenever two or more persons are occupying the same boat or blind not to exceed twenty-

five shore birds may be taken in the aggregate of all kinds in one day by such persons.

[Re-enacted without change, as amended by chapter 508, Laws of 1913, and chapter 521, Laws of 1916.]

§ 217. Shore birds; open season; special. Shore birds may be taken on Long Island as follows:

1. Woodcock. October fifteenth to November thirtieth, both inclusive.

2. Snipe, plover, surfbirds, sandpipers, tattlers and curlews. August first to November thirtieth, both inclusive.

[As amended by chapter 521, Laws of 1916.]

§ 218. Antwerp or homing pigeons. No person shall take or interfere with any Antwerp or homing pigeon if it have the name of its owner stamped upon its wing or tail, or wear a ring or seamless leg band with its registered number stamped thereon. or have any other distinguishing mark; nor shall any person remove any such distinguishing mark from any such pigeon.

§ 219. Certain wild birds protected. Wild birds other than the English sparrow, starling, crow, hawk, crow-blackbird, snow-owl, great horned owl, great blue heron, bittern and king-fisher shall not be taken or possessed at any time, dead or alive, except under the authority of a certificate issued under this article. No part of the plumage, skin or body of any bird protected by this section or of any birds

coming from without the state, whether belonging to the same or a different species from that native to the state of New York, provided such birds belong to the same family as those protected by this article, shall be sold or had in possession for sale. The provision of this section shall not apply to game birds for which an open season is provided in this article, birds or parts thereof collected or possessed in accordance with the provisions of section one hundred and fifty-nine.

[As amended by chapters 77 and 521, Laws of 1916.]

§ 220. Destroying or robbing nests. Nests of wild birds other than the English sparrow, starling, crow, hawk, crow-blackbird, snow-owl, great horned owl and kingfisher shall not be robbed or wilfully destroyed, except when necessary to protect buildings or prevent their defacement, or when taken under the authority of the commission.

§ 221. Snares, nets or traps. No wild bird, or bird for which a close season is provided, shall be trapped, netted or snared, or, if so taken, possessed. No net, trap or snare for taking pheasants, grouse or quail, shall be set, placed or used where such birds can be taken. Any such net, trap or snare is declared to be a public nuisance, and may be summarily abated and destroyed by any person, and it shall be the duty of every protector to seize and destroy any such device.

[As amended by chapter 508, Laws of 1913.]

§ 222. Game shall not be taken on certain public lands. Game shall not be taken on the lands purchased or condemned by any municipality within the state for the purpose of supplying any municipality with water and protecting the same from pollution and contamination, or on any public highway, except public highways other than state or county highways within the forest preserve counties.

[As amended by chapter 405, Laws of 1916.]

§ 222-a. Game not to be taken from an automobile. No person while in an automobile shall take game; nor by aid or use of any light or lights carried thereon or attached thereto.

[As added by chapter 404, Laws of 1916.]

§ 223. [Repealed by chapter 521, Laws of 1916.]

PART VII.

Fish.

Section 230. Sale of minnows for bait.

231. Bass; open season; limit.

232. Trout; open season; limit.

234. Lake trout and whitefish; open season
and size limit; catch; sale of.

235. Lake trout and whitefish; open season;
special.

236. Pikeperch; open season; size limit;
sale of.

237. Pickerel and pike; open season and
limit; sale of.

Section 238. Short nosed sturgeon; lake sturgeon;
sea sturgeon; open season and size
limit; sale of.

239. Maskalonge; open season and size limit;
sale of.

240. Striped bass; size limit; sale of.

241. Smelt or icefish; open season and size
limit; sale of.

242. Prohibited; stocking private waters.

243. Prohibited; disturbing bass, trout and
lake trout while spawning.

244. Prohibited; thumping.

245. Prohibited; explosives.

246. Prohibited; obstructing streams.

247. Prohibited; polluting streams.

248. Prohibited; polluting waters used by
state fish hatcheries.

249. Prohibited; drawing off water.

250. Prohibited; placing fish in certain
waters.

251. Prohibited; fishing near fishways.

*253. Tip-ups.

254. Set and trap lines.

255. Spearing.

256. Eel weirs and eel pots.

257. Frogs.

258. Penalties.

§ 230. Sale of minnows for bait. No person shall
take minnows for bait with a net, trap or seine or

* So in original.

sell minnows so taken without having first obtained a license so to do from the commission. Provided, however, that no license shall be required from a person to take minnows for his own use and not for sale. Minnows shall not be taken within one hundred feet of any dock, pier or boat landing structure along the Saint Lawrence river without the consent of the owner thereof, nor shall they be taken with a net, trap or seine in waters inhabited by trout.

§ 231. Bass; open season; limit.

1. Open season. Black bass not less than ten inches in length may be taken and possessed from June sixteenth to November thirtieth, both inclusive.

2. Size of catch. A person may take not to exceed fifteen such black bass in one day, but whenever two or more persons are angling from the same boat they may take not to exceed twenty-five in one day.

[See Lake George. See Additional Protection Orders.]

§ 232. Trout; open season; limit.

1. Open season. Trout not less than six inches in length may be taken and possessed from the first Saturday of April to August thirty-first, both inclusive.

2. **Size of catch.** A person may take not to exceed ten pounds of trout in one day.

[As amended by chapter 508, Laws of 1913 and chapter 92, Laws of 1914.]

[§ 233. Repealed by chapter 508, Laws of 1913.]

§ 234. **Lake trout and whitefish; open season and size limit; catch; sale of.**

1. **Open season and size limit.** Lake trout not less than fifteen inches in length and whitefish not less than one and three-quarters pounds in the round may be taken and possessed from April first to September thirtieth, both inclusive.

2. **Otsego whitefish, commonly called Otsego bass,** not less than nine inches in length may be taken and possessed from January first to October thirty-first, both inclusive.

3. **Size of catch.** A person may take by angling not to exceed ten lake trout in one day, but whenever two or more persons are angling from the same boat they may take not to exceed fifteen in one day. Whitefish may be taken in any number or quantity.

4. **Sale of.** Such lake trout and whitefish may be bought and sold during the open season therefor.

[As amended by chapter 508, Laws of 1913, and chapter 92, Laws of 1914.] [See Lake George.]

§ 235. **Lake trout and whitefish; open season; special.** Lake trout and whitefish may be taken in

Lakes Erie and Ontario in any number or quantity at any time, and when so taken may be possessed, bought and sold, provided that every person to whom a license is issued to take such fish with a net or nets operated from power boats shall, when required by the commission, furnish without charge to the commission eggs and milt from such fish taken by him during the spawning season. Such eggs and milt shall be taken by the commission for propagation only and shall be taken from the fish by the agents of the commission. The person to whom such license is issued may be required by the commission to give a bond with sufficient sureties approved by the commission conditioned that he will furnish such eggs and milt as aforesaid and permit the agents of the commission to be present in any such boat at the time of the taking of such fish for the purpose of taking such eggs and milt and conditioned that he will not hinder or delay such agent in the performance of such duty nor in the landing of such eggs and milt from said boat in good order.

Lake trout not less than fifteen inches in length and white fish not less than one and three-quarters pounds in the round taken without the state may be imported into this state at any time and when so imported may be possessed, bought and sold.

[As amended by chapter 508, Laws of 1913, and chapter 92, Laws of 1914.]

§ 236. Pike perch; open season; size limit; sale of.

1. Open season; size limit and sale of. Pikeperch not less than twelve inches in length may be taken, possessed, bought and sold in any number or quantity from May thirtieth to March first, both inclusive.

2. Blue pike perch and saugers of any size may be taken at any time and in any number or quantity in Lakes Erie and Ontario and in the lower Niagara river, and when so taken may be possessed, bought and sold.

[Amended by chapter 403, Laws of 1916.]

[See Lake George.]

§ 236-a. Yellow perch; open season; sale of. 1. Yellow perch may be taken and possessed, in any number or quantity, from the waters of Cazenovia lake, Otisco lake, Skaneateles lake, Cross lake, Onondage lake and Jamesville reservoir, only between the first day of May and the first day of March, both inclusive.

2. Such yellow perch may be bought and sold during the open season therefor.

[Added by chapter 219, Laws of 1915, and amended by chapter 521, Laws of 1916.]

§ 237. Pickerel and pike; open season and limit; sale of.

1. Open season. Pickerel and pike in any number or quantity may be taken and possessed from May first to March first, both inclusive, except as herein provided.

2. **Limit.** In the Saint Lawrence river a person may take in one day not to exceed twelve great northern pike, locally known as "pickerel" not less than twenty inches in length.

3. **Sale of.** Such pickerel and pike may be bought and sold during the open season therefor.

[See Lake George.]

§ 238. Shortnosed sturgeon; lake sturgeon; sea sturgeon; open season and size limit; sale of.

1. **Open season and size limit.** Shortnosed sturgeon not less than twenty inches in length may be taken and possessed from July first to April thirtieth, both inclusive, in any number or quantity. Lake sturgeon not less than thirty inches in length, and sea sturgeon not less than four feet in length may be taken and possessed in any number or quantity at any time.

2. **Sale of.** Such sturgeon may be bought and sold during the open season therefor.

§ 239. Maskalonge; open season and size limit; sale of.

1. **Open season and size limit.** Maskalonge not less than twenty-four inches in length may be taken and possessed from June sixteenth to December thirty-first, both inclusive, in any number or quantity. No person shall take maskalonge through the ice.

2. Sale of. Such maskalonge may be bought and sold during the open season therefor.

§ 240. Striped bass; size limit; sale of. Striped bass not less than twelve inches in length may be taken by angling and with nets and possessed and sold in any number or quantity at any time.

§ 241. Smelt or icefish; open season and size limit; sale of.

1. Open season and size limit. Smelt or icefish not less than six inches in length may be taken from the inland waters of the state and in Lake Champlain in any number or quantity at any time. Smelt or icefish of any size may be brought from without the state or taken within the marine district.

2. Possession and sale of. Such smelt or icefish may be possessed, bought and sold at any time.

[As amended by chapter 508, Laws of 1913.]

§ 241-a. Lake George, open seasons, special. The open seasons for taking fish in the waters of Lake George, in any part thereof, shall be as follows: Lake trout, from May first to October first, both inclusive; pike perch, pickerel, great northern pike, from June sixteenth to December thirty-first, both inclusive; bullheads, from July first to December thirty-first, both inclusive; black bass, from August first to December fifteenth, both inclusive.

[Inserted by chapter 583, Laws of 1913.]

§ 242. Prohibited; stocking private waters. Trout or lake trout shall not be taken from any of the waters of the state for the purposes of stocking private ponds or streams. Provided, however, that any person desirous of aiding the state in the propagation and distribution of trout, may on approval of the commission, take trout eggs from trout in public waters for breeding purposes and such trout shall be returned to the waters from which they were taken. Before permission is given, or trout taken as herein provided, the applicant shall show conclusively that he has facilities for breeding trout, and must execute a satisfactory bond to the people of the state, to be approved by the commission, conditioned that he will not sell, give away, convert to his own use, or otherwise dispose of any trout, or eggs taken under said permit, and will return the young trout to public waters at such times and places as the commission may designate.

[As amended by chapter 508, Laws of 1913.]

§ 243. Prohibited; disturbing bass, trout, and lake trout while spawning. Bass, trout and lake trout on spawning beds in the close season shall not be disturbed, nor shall their spawn or milt be taken from the spawning beds except as provided by the preceding section, and section one hundred and fifty-five.

§ 244. **Prohibited; thumping.** Sailing, rowing, pushing or floating in any boat or vessel in a waterway, river, run or channel, bay or sound, or patrolling the banks of such waterway, river, run or channel, bay or sound, and stamping, jumping, shouting, pounding, beating or splashing the water, beating or pounding the banks, or boat while a seine or net is set, drawn, held, or used in such waterway, river, run or channel, bay or sound, with intent to drive fish into such seine, or net, which acts are commonly known as thumping, are hereby forbidden.

§ 245. **Prohibited; explosives.** Fish shall not be taken by means of explosives. Except for mining or mechanical purposes, dynamite or other explosives shall not be used in any of the waters of this state, or possessed upon the waters, shores or islands thereof. Possession thereof by any person on the waters, shores or islands thereof, of this state shall be presumptive evidence that the same is possessed for use in violation of the provision of this section.

§ 246. **Prohibited; obstructing streams.** Except as provided in section two hundred and fifty-six or as directed by the commission, no person shall by means of any rack, screen, weir, or other obstruction in any creek, stream or river, prevent the passage of fish. The commission may order such an obstruction to be removed by the person erecting the same or by the owner of the land on which the

same is located. A copy of the order shall be served on such person or owner. Failure to comply with the terms of such order within ten days after service of the same shall be deemed a violation of this section.

[As amended by chapter 508, Laws of 1913.]

§ 247. Prohibited; polluting streams. No dye-stuffs, coal tar, refuse from a gas house, cheese factory, creamery, condensery or canning factory, sawdust, shavings, tanbark, lime or other deleterious or poisonous substance shall be thrown or allowed to run into any waters, either private or public in quantities injurious to fish life inhabiting the same, or injurious to the propagation of fish therein.

[Re-enacted without change, chapter 508, Laws of 1913.]

§ 248. Prohibited; polluting of waters used by state fish hatcheries. No person shall erect or maintain any privy, watercloset, pigsty, hogpen, inclosure for poultry, barn or barnyard in which animals or poultry are kept, or drain from any building or the cellar thereof, where drainage or refuse therefrom will flow into or find its way into water used by any fish hatchery operated by the state, or into any pond, creek or stream used in connection therewith. Every such privy, watercloset, pigsty, hogpen, enclosure, barn, barnyard and drain is hereby declared to be a public nuisance.

and may be summarily abated by the commission. No person shall place sewage or other matter injurious to fish where the same can find its way into water used by any fish hatchery operated by the state, or suffer the same to be done from, over or through premises owned or occupied by him.

§ 249. Prohibited; drawing off water; fishing. No person shall take fish by shutting or drawing off water for that purpose. No person shall hold back or divert the water in any stream which supplies a state hatchery so as to prevent the necessary flow of sufficient water for hatchery purposes.

No person, except under authority of the commission, shall take fish from the waters of any fish hatchery.

[As amended by chapter 508, Laws of 1913.]

§ 250. Prohibited; placing fish in certain waters. Fish or eggs thereof other than trout, lake trout, brook trout, whitefish and smelt, shall not be placed in any waters of the state inhabited or stocked with trout. No person shall put or place in any public waters of the state fish commonly known as carp, nor shall any person put or place in such waters the spawn of such fish or use such fish as bait in the water thereof. Whenever the conservation commission shall determine that any waters of the state heretofore inhabited or stocked with trout are no longer inhabited by trout or are unsuitable as trout

waters, the commission may make an order permitting such waters to be stocked with any species of fish in addition to trout, lake trout, frostfish, whitefish or smelt, or the eggs thereof.

[As amended by chapter 92, Laws of 1914.]

§ 251. Prohibited; fishing near fishways or dams. The commission may maintain fifty rods from any dam or fishway erected by the state in public waters, on both sides of the stream above and below the fishway or dam (as the case may be) signboards containing substantially the following notice: "Fifty rods to the fishway or dam (as the case may be); all persons are prohibited by law from fishing in this stream between this point and the fishway or dam" (as the case may be). No person shall take fish within fifty rods of any fishway or dam posted with signboards as provided in this section.

[As amended by chapter 92, Laws of 1914.]

§ 252. Prohibited; taking fish through the ice in certain waters. No person shall take fish through the ice in waters inhabited by trout unless an order specifying the waters and fixing the season shall first be made by the commission.

[As amended by chapter 508, Laws of 1913.]

§ 253. Tip-ups. Tip-ups may be used, for fishing through ice except in waters inhabited by trout, to take bullheads, catfish, eels, perch, sunfish, and except during the months of March and April, pike-perch, pike and pickerel. No person shall operate

or control at the same time more than fifteen tip-ups. All tip-ups must be marked with the name and address of the owner thereof.

[As amended by chapter 508, Laws of 1913.]

§ 254. Set and trap lines. Set lines may be used except in waters inhabited by trout to take whitefish, bullheads, catfish, eels, perch, sunfish, carp, mullet and dogfish, provided an order specifying the waters and fixing the season shall first be made by the commission. Set and trap lines may be used to take sturgeon in any waters during the open season therefor, provided a license for so doing shall first be obtained from the commission.

[As amended by chapter 508, Laws of 1913.]

§ 255. Spearing. Spears, grappling hooks, naked hooks or snatch hooks may be used, except in waters inhabited by trout, for taking whitefish, mullet, carp, catfish, dogfish, bullheads, suckers and eels at any time, provided an order specifying the waters and fixing the season shall first be made by the commission.

[As amended by chapter 508, Laws of 1913.]

§ 255-a. Taking certain non-game fish. Suckers, mullet, carp, bullheads and eels may be taken by snatch hooks only in any stream in the state at any point in such stream not less than five miles below the source thereof, between November first and April thirtieth, both inclusive. In taking such fish

under the provisions of this section, driving shall be permitted. The requirements, prohibitions, conditions and exceptions prescribed by sections two hundred and fifty-two and two hundred and fifty-five of this chapter shall not apply to the taking of fish described in this section with snatch hooks within the times herein prescribed.

[Added by chapter 297, Laws of 1915.]

§ 255-a. *Spearing in Niagara river.* 1. Fish excepting trout, black bass, pickerel and maskalonge may be taken in the Niagara river between the lower steel arch bridge and the suspension bridge at Lewiston Heights with spears, at any time during the open season for such fish. No such fish, however, shall be taken of a size less than that prescribed by this chapter.

[Added by chapter 299, Laws of 1915.]

2. Every person, before taking fish with a spear as herein provided, shall obtain a license therefor from the town or city clerk of the town or city in which he resides. Such town clerk shall be entitled to receive a fee of one dollar for issuing such license to be disposed of in the manner provided by subdivision four of section one hundred and eighty-five of this chapter.

§ 256. *Eel weirs and eel pots.* Eel weirs and eel pots of such form as may be prescribed by the commission may be used at any time for taking eels,

provided a license for so doing shall first be obtained from the commission. Eel weirs shall not be used in waters inhabited by trout. This section shall not apply to waters of the marine district.

§ 257. Frogs. Bullfrogs, green frogs, and spring frogs may be taken in any manner, possessed, bought and sold from June first to March thirty-first, both inclusive. They shall not be taken, possessed, bought or sold at any other time.

§ 258. [Repealed by chapter 521, Laws of 1916.]

PART VIII.

Nets and Netting.

Section 270. Nets to be licensed.

271. Fish which may be taken with nets.

Superintendent of inland fisheries.

272. Size of mesh.

273. Hauling of nets regulated.

274. Nets to be tagged and buoyed.

275. Prohibited; use of nets in certain waters.

276. Nets in Lakes Erie and Ontario.

277. Niagara river.

278. Nets in Chaumont bay and adjacent waters.

279. Nets in Hudson and Delaware rivers and adjacent waters.

280. Application.

281. Vessels to carry employees of commission.

Section 282. Nets to be destroyed.

283. Seizure of nets; regulations in certain counties.

284. Penalties.

§ 270. Nets to be licensed. Unless otherwise provided by this article, seines, gills, fykes, pounds, traps, scaps and other nets or devices may be set or used in any of the waters of the state provided a license so to do shall be first obtained from the commission. Rules regulating the use of seines, gills, fykes, pounds, traps, scaps and other nets or devices in any of the waters of the state, and providing for the licensing of such nets, together with a license fee therefor, may from time to time be prescribed by the commission when not inconsistent with law, and such rules shall be filed in the office of the commission.

[As amended by chapter 508, Laws of 1913.]

§ 271. Fish which may be taken with nets. Superintendent of inland fisheries. When permitted by the commission lake trout, whitefish, pickerel, pike, pike perch, shad, herring, striped bass, smelt or icefish and sturgeon of all kinds, of the size limit and during the open season therefor as prescribed in part seven of this article, and all fish not protected by law may be taken by nets in waters of the state, in any number or quantity. For the purpose of supervising the taking of fish with nets the commission is empowered to designate from the protectors a

superintendent of inland fisheries at a salary of not to exceed twenty-five hundred dollars per annum, and his actual and necessary expenses while in the performance of his official duties, not to exceed one thousand dollars.

[As amended by chapter 508, Laws of 1913, and chapter 107, Laws of 1914.]

§ 272. **Size of mesh.** When permitted the size of mesh of nets shall be as follows:

1. Gill or other movable nets used for taking lake trout or whitefish, not less than two and three-eighths inch bar. For taking Otsego whitefish, commonly called Otsego bass, not less than one and one-half inch bar.

2. Gill or other nets used for taking fish other than lake trout and whitefish, not less than one and one-eighth inch bar.

§ 273. **Hauling of nets regulated.** No nets or other devices for taking fish shall be hauled after sunset and before sunrise.

[As amended by chapter 508, Laws of 1913.]

§ 274. **Nets to be tagged and buoyed.** All nets or other devices for taking fish permitted under this part shall be buoyed and tagged in such manner as may be prescribed by the commission.

§ 275. **Prohibited; use of nets in certain waters.** In waters inhabited by trout the use of nets of any kind is prohibited. This prohibition shall not apply

to landing nets used to land fish duly hooked by angling or to use of nets by the commission as provided in section one hundred and fifty-five of this chapter.

§ 276. **Nets in Lakes Erie and Ontario.** Fish, except black bass and maskalonge, may be taken with nets during the open season therefor in the waters of Lake Erie, except within one-half mile of the shores or islands thereof and within five miles of the mouth of Cattaraugus creek and, with the exception of sturgeon nets, within five miles of the head of Niagara river during the open season; and in Lake Ontario opposite and between the east and west boundaries produced of Niagara county, except within one-half mile of the shores or islands of such lake and within one mile of the mouth of the Niagara river during the open season; and in Lake Ontario outside of such waters opposite Niagara county from May sixteenth to September thirtieth, both inclusive, except within one mile of the shores or islands thereof during the open season, and from October first to May fifteenth, both inclusive, except within one-half mile of the shores or islands thereof during the open season.

[As amended by chapter 664, Laws of 1913, and chapter 329, Laws of 1914, and chapter 627, Laws of 1915.]

§ 277. **Niagara river.** Seines and squat nets may be used to take fish except black bass, lake trout, whitefish and maskalonge in the Niagara river in

November, December, January and March. Fish except black bass, pike perch, lake trout, whitefish, pickerel and maskalonge may be taken by seine, machine or trap by citizens of the state in that part of the Niagara river in the town of Lewiston, Niagara county, during the time when Canadians may lawfully fish with such devices in said river on the Canada side opposite the town of Lewiston, provided a license therefor has been granted by the commission, and provided that lake trout and whitefish must not be taken during November and December.

§ 278. Nets in Chaumont bay and adjacent waters. Fish, except black bass and maskalonge, may be taken with nets during the open season therefor in the waters and bays of Lake Ontario, in the county of Jefferson between Horse island in the town of Hounsfield and the town line between the towns of Lyme and Cape Vincent, except the waters within one-half mile of Stoney island, Calf island or of the Galloup islands from October first to June first, both inclusive, and except the waters around Fox island within three-quarters of a mile of said island between a line running due north from the foot of said island, and a line running due east from the south head of said island from October tenth to November twentieth, both inclusive. Such nets shall on order of the commission be removed from any place after the black bass begin to run there.

Sturgeon may be taken with sturgeon nets of not less than five inch bar at any time.

[As amended by chapter 664, Laws of 1913, and chapter 521, Laws of 1916.]

§ 279. Nets in Hudson and Delaware rivers and adjacent waters. Shad and herring may be taken with drifting nets operated by hand only from March fifteenth to June fifteenth, both inclusive, in the Delaware river and that part of the Hudson river below the dam at Troy and north of Verplanck's Point. No such net shall be set, placed or drawn, or fish taken therefrom between sunset on Friday and sunrise on Monday. Fish, except salmon, black bass, trout, pike perch, and except also during March and April, pickerel and pike may be taken with nets in the Hudson river below the dam at Troy, from September first to May thirtieth, both inclusive. Sturgeon may be taken in the Hudson river with sturgeon nets of not less than five and one-half inch bar, from June first to September first, both inclusive.

§ 280. Application. The provisions of part VIII of this article, except sections two hundred and eighty-two and two hundred and eighty-three, shall only apply to the taking of fish from Lakes Erie and Ontario, the Hudson river north of Verplanck's Point and the inland waters of the state.

[As amended by chapter 508, Laws of 1913.]

§ 281. Vessels to carry employees of commission. Any person owning or operating a boat or vessel used for the taking of fish shall, at any time, permit game protectors or other employees of the commission to board such boats and inspect the cargo or contents, and shall at any time carry such persons for the purposes of inspecting nets or the hauling of the same, or the taking of fish eggs.

§ 282. Nets to be destroyed. Seines, fykes, pounds, traps and other nets not authorized by law, had, set or used in or upon any of the inland or tidal waters of the state or on the shores thereof, or islands surrounded by said waters are hereby declared to be public nuisances, and shall be summarily seized, abated and destroyed by any game protector or may be sold by the commission at public auction to the highest bidder under rules and regulations established by it; provided, however, the commission may direct a game protector to retain certain nets or seines for the use of the state hatcheries. Possession of nets other than as provided for by part VIII at any time by any person in or on or within five hundred feet of any waters of the state shall be presumptive evidence that the same were unlawfully used. ,

[As amended by chapter 508, Laws of 1913.]

§ 283. Seizure of nets; regulations in certain counties. The reasonable expense of the seizure, re-

moval or destruction of any net, pound or other illegal device shall be a county charge against the county in which the same shall be seized, and shall be audited and paid as a county charge on verified statement of the game protector making the seizure, stating the time and place of such destruction, the name of the person or persons employed, the time spent and money paid, if any, therein. The board of supervisors of any county may, by resolution, make such further regulation in the presentation of said statement and the destruction of said devices as it may deem proper.

§ 284. [Repealed by chapter 521, Laws of 1916.]

PART IX.

Fishways.

Section 290. Notice of construction of dam.

291. Fishways; penalties.

§ 290. Notice of construction of dam. Before the construction of a dam is commenced on any of the inland waters of the state, the plan thereof, and a statement of the name, length and location of the waters on which the dam is to be built shall be given to the commission by the person, or if by public authority, by the official directing or permitting the work.

§ 291. Fishways; penalties. The commission may on notice to the owner of the land or the official

directing or permitting the work, make an order to be entered in its minutes and to be served by copy on such person or official directing the construction of fishways in any dam heretofore or hereafter built, or if there be fishways, the making of changes therein in accordance with specifications to be embodied in said order and it shall be the duty of the person or official so served to comply with such order within the time to be specified in said order, and every person or officer who fails or refuses to comply with or violates such order shall be guilty of a misdemeanor and be liable to a penalty of five dollars for every day such violation, failure or refusal continues.

[As amended by chapter 508, Laws of 1913. §§ 292 and 293 repealed by chapter 508, Laws of 1913.]

PART X.

Marine Fisheries.

Section 300. Marine district described.

301. Bureau of marine fisheries.

302. Office and clerical force.

303. Reports relating to shellfish.

304. Leases for cultivation of shellfish, et cetera, limitations.

305. Collection of rents.

306. Settlement of disputes as to shellfish leases.

307. Provisions for taxation; statement of property; penalty; assessment of tax.

Section 308. Levy of tax, et cetera.

309. Collection of tax.

310. Sanitary inspection of shellfish grounds,
et cetera.

311. Duties of state commissioner of health.

312. Record and certificate of inspection, et
cetera, notice of condition of public
shellfish grounds.

313. Prohibited sale of shellfish unless sani-
tary condition be certified, et cetera.

314. Taking oysters in South bay.

315. Blue Point oysters.

316. Shellfish beds protected.

317. Dredging and raking for shellfish.

318. Scallops, size limit.

319. Residents only to take shellfish.

320. Star-fish to be destroyed.

321. Prohibited; taking of lobsters under cer-
tain size.

322. Size of openings in lobster traps.

323. Residents only to take lobsters, except
in certain waters.

324. Licenses for vessels, et cetera.

325. Polluting waters.

326. Garbage not to be thrown in certain
waters.

327. Prohibited; use of nets in inlets.

328. Prohibited; nets in the Harlem river
and adjacent waters.

329. Richmond county and Raritan bay.

Section 330. Jamaica bay and adjacent waters.

331. Size of mesh in Coney Island creek.

332. Rockaway bay, Jones' inlet and adjacent waters.

333. Recording and fees.

334. Supervisors of Nassau and Suffolk counties.

335. Penalties.

§ 300. Marine district described. The marine district shall include all waters in and adjacent to Long Island and all tidal waters of the state, except the Hudson river north of Verplanck's Point.

§ 301. Bureau of marine fisheries. There shall continue to be a bureau of marine fisheries under the supervision and control of the commission. The commission may appoint for the bureau of marine fisheries a supervisor of marine fisheries, who shall administer the affairs of such bureau relating to shellfish and shell fisheries.

[As amended by chapter 508, Laws of 1913.]

§ 302. Office and clerical force. The commission may appoint for the bureau of marine fisheries a deputy supervisor of marine fisheries, a cashier who shall also perform the duties of bookkeeper who shall have a salary of two thousand dollars a year, a surveyor who shall have a salary of two thousand dollars a year and the expenses necessarily incurred by him in the discharge of his official duties not to

exceed seven hundred dollars a year, one confidential secretary who shall have a salary of eighteen hundred dollars a year, one or more bacteriologists and such clerical assistants as are actually needed for which appropriation shall have been made by the legislature. The supervisor, the deputy supervisor and the cashier shall take and subscribe the constitutional oath of office, and shall each execute and file a bond to the people of the state in the sum of five thousand dollars with sureties approved by the commission, conditioned for the faithful performance of their duties and to account for and pay over pursuant to law, all moneys received by them or either of them in their office. During the absence or inability to act of the supervisor, the deputy supervisor shall have and exercise all the power of the supervisor. All the officers and employees of the bureau of marine fisheries shall hold office during the pleasure of the commission.

[As amended by chapter 508, Laws of 1913.]

§ 303. Reports relating to shellfish. The supervisor shall, on or before the fifth day of each month, make a report to the deputy in charge of the division of fish and game of his proceedings for the preceding calendar month. He shall include in such report a detailed statement of his receipts from all sources, together with a statement of all land under water disposed of for shellfish cultivation and all such lands surrendered to the state, together with

such other facts relating to the matters within his jurisdiction as he may deem necessary. He shall also in like manner make an annual report to the deputy commissioner of the same matters for the year ending with the first day of January preceding. In making the annual reports provided for in section twelve of the conservation law, the commission and deputy commissioner in charge of the division of fish and game shall include in such reports in addition to the matters required in said section a statement of all land under water disposed of for shellfish cultivation and all such lands surrendered to the state.

§ 304. Leases for cultivation of shellfish; letting to be at public auction; re-leasing; reports; marking ground; leases not transferable; summary proceedings; limitations.

1. Leases for cultivation of shellfish. The supervisor, under the direction and supervision of the commission, may lease lands under water for the cultivation of shellfish to persons who have resided in the state one year or more, but oyster beds of natural growth shall not be leased unless the same have for five years failed to produce natural oysters in sufficient quantities to enable persons engaged in the taking thereof, to earn a livelihood by working on such lands.

2. **Letting to be at public auction.** Before a lease is made notice thereof must be posted for at least three weeks in a conspicuous place in the office of the supervisor, in the office of the town clerk and in the post-office nearest to the land applied for. The letting shall be at public auction, to the highest bidder, and the commission shall classify the lands applied for in accordance with their value and fix a minimum price at which the lease may be awarded, but such price shall in no case be less than twenty-five cents an acre annually and in no case shall term of the lease exceed fifteen years.

3. **Re-leasing.** On the expiration of any lease or within ninety days prior thereto and upon it being shown to the satisfaction of the commission that the lands described therein have in good faith been used for shellfish cultivation continuously during the preceding term for which such lease was granted, the lessee, owner or holder of said lease shall have the privilege of re-leasing such lands for a period not exceeding fifteen years, upon such terms as may be agreed upon between said lessee and the supervisor, subject to the approval of the commission, but the rental shall in no case be less than twenty-five cents per acre annually. Upon the failure to agree on terms for the re-leasing of such lands, the holder of such original lease shall be allowed an extension of one year for the purpose of removing from the grounds so leased all shellfish belonging to

him upon such ground, and such extension shall be made at the terms named in such original lease.

4. Reports. Every person holding a lease or franchise shall report annually to the supervisor, on blanks provided for that purpose, such information as the commission may deem necessary.

5. Marking grounds. A lessee shall immediately mark the grounds leased, by stakes, buoys or monuments, which shall be maintained by him, his successors or assigns during the continuance of the lease.

6. Leases not transferable. Leases shall not be transferable in whole or in part, except to persons who might have been original lessees.

7. Summary proceedings. The commission may immediately oust from such lands, tenants whose rent is in arrears or who fail or refuse to report as herein provided, and thereupon the lease held by such delinquent shall become null and void. The provisions of chapter seventeen, title two of the code of civil procedure shall apply and govern the procedure in such cases.

8. Limitations. This section shall not be construed as limiting the power of the commissioners of the land office to grant land under water, but any grant of land actually occupied and in use for cultivation of shellfish shall be subject to the right

of the occupant to occupy and use such land for at least two years, and no grant of land by such commissioners of the land office shall thereafter be used for the cultivation of shellfish, nor shall the public be excluded therefrom for the purpose of taking shellfish. Nor shall it apply to any of the excepted lands named in section three hundred and seven of this chapter.

§ 305. **Collection of rents.** The supervisors may, under the direction of the commission, in the name of the people of the state, sue for, collect, compromise, compound or satisfy rents which now are or may hereafter be in arrears on leases by the state, of land under water, for the cultivation of shellfish and make such rebates thereon as in his judgment are just and equitable, provided the sum accepted on such compromise or settlement shall in no case be less than twenty-five cents an acre annually. In cases where a grantee or assignee of a grantee of lands for shellfish cultivation is desirous of surrendering such lands, the supervisor in his discretion shall, in case such person is not indebted to the commission for rentals or otherwise, receive an assignment of such lands to the state of New York and cause such assignment to be recorded in his office.

§ 306. **Settlement of disputes as to shellfish leases.** The supervisor shall have jurisdiction to hear all controversies which have arisen or may arise with

regard to the leasing of lands under water for the cultivation of shellfish, and to determine the same upon just and equitable terms to be approved by the commission.

§ 307. Provisions for taxation; statement of property; penalty; assessment of tax.

1. **Statement of property.** All owners, lessees or persons in possession of shellfish grounds within the state of New York, shall, on or before the thirtieth day of September, annually, deliver to the supervisor at his office a statement under oath, specifying the number of acres of shellfish grounds owned, leased or used by them on the first day of August preceding, and the location, description and value thereof and whether held under grant; lease or otherwise, and printed blanks shall be prepared by the commission and furnished upon application at the office of the bureau of marine fisheries. But in case an owner, lessee or persons in possession as aforesaid shall have made a previous statement and shall make and file an affidavit of such fact on or before September thirtieth in each year, showing that no change has been made in his or their holding as rendered in the previous statement, then such previous statement shall be taken as the statement for the year in which the affidavit is filed. .

2. **Penalty.** In case of the failure of any such person to deliver such statement to said supervisor

at his office within the time above specified, or, if any statement so delivered to him shall erroneously state the number of acres subject to the tax hereinafter imposed, said supervisor shall make up a statement from the best information he may obtain, and shall add for such default to the tax hereinafter provided a penalty of twenty per centum of the amount of such tax.

3. **Assessment of tax.** The said supervisor shall annually make up and keep a book in his office to be known as the assessment book, in which he shall set down alphabetically the names and addresses of the owners, lessees or persons in possession of all shellfish ground within the state, the number of acres held or possessed by them and the location thereof as shown by the statements aforesaid, the amount of the tax payable thereon as hereinafter provided, and any penalty thereon; such assessment book shall also contain columns for the date of payment of such tax and the amount of tax and penalty paid.

§ 308. **Levy of tax; notice and grievance; payment of tax; tax in lieu of other taxes; limitations.**

1. **Levy of tax.** For the benefit of the state and for the protection and fostering of the shell fisheries thereof, and the maintenance of an efficient office or bureau, an annual tax at the rate of twenty-five cents per acre shall be levied and assessed

upon each and every acre of shellfish ground located within this state owned, leased or possessed by any person whatsoever. The commission shall annually, and before the first day of February, levy and assess the said tax upon the property described in the statement made as aforesaid, setting forth the amount thereof, and any penalty added thereto, in the assessment book, as provided in the last section.

2. **Notice and grievance.** The commission shall thereupon serve notice on all persons whose lands are so assessed, and on which a tax is levied hereunder, which notice shall be in writing and may be served personally or by mailing the same to the last known post-office address of such person, stating that such tax roll has been completed and is on file in the office of the supervisor, the number of acres so assessed and the amount of the tax thereon, the penalties incurred, if any, and that on a day therein stated, which shall be not less than five days from the date of such notice, the supervisor or the deputy in charge of the division of fish and game will hear the complaint of all persons declaring themselves aggrieved thereby, and on such hearing sections thirty-six and thirty-seven of the tax law shall apply so far as the same are applicable and such assessment may be reviewed by certiorari in the manner provided in the tax law for the review of erroneous or illegal assessments.

3. **Payment of tax.** Such tax shall be paid to the said commission at the office of the supervisor within sixty days after the first day of February in each year, and he shall give a proper receipt therefor, and immediately enter such payment upon the assessment book with the date of payment. Such tax and any penalty thereon shall be a first lien upon all the property subject thereto, including the shellfish thereon from the first day of February in the year in which such tax is laid.

4. **Tax in lieu of other taxes.** The tax hereby imposed shall be in lieu of all other taxes on such property, and no other tax except as provided in this article shall be levied or imposed on said shellfish grounds, or the shellfish thereon, by any authority whatever.

5. **Limitations.** Sections three hundred and six, three hundred and seven, three hundred and eight, and three hundred and nine of this chapter do not apply to or affect lands under water, held and in possession under colonial patents, or legislative grants, by any town or person in the counties of Kings, Queens, Suffolk, Nassau or Richmond, or to lands under the waters of Gardiners and Peconic bays, ceded by the state to the county of Suffolk, pursuant to chapter three hundred and eighty-five of the laws of eighteen hundred and eighty-four, as amended by chapter six hundred and forty of the laws of nineteen hundred and six.

[As amended by chapter 508, Laws of 1913.]

§ 309. Collection of tax. If any tax so laid shall not be paid on or before the first day of April, the said supervisor shall make and issue his warrant, in the name of the commission, for the collection thereof, with interest thereon, at one per centum per month from the day such tax became due and payable, and until paid, which warrant shall be delivered to the sheriff of the county within whose jurisdiction the lands are situated, directing such sheriff to collect such tax, together with the penalty and interest, if any, due thereon, together with his fees for making such collection, and such sheriff is hereby authorized, empowered and required in default of such payment to sell the property described in such warrant in the manner provided by law for a sale under execution, and to deliver to the purchaser thereof a proper deed or assignment, as the case may be, and such warrant shall immediately be returned to said supervisor by said sheriff with all his proceedings indorsed thereon, and he shall pay over to said supervisor the money received upon such sale, and said supervisor shall apply the same to the payment of such tax and all interest and expenses thereon, including the expenses of such sale, returning any balance that may remain to such owner or owners. All moneys received by said supervisor in payment of taxes and interest thereon shall be accounted for and paid by said supervisor to the state treasurer, for the benefit of the state, within thirty days after its receipt.

§ 310. Sanitary inspection of shellfish grounds; cancellation of certificate; service of notice; report.

1. Sanitary inspection of shellfish grounds. It shall be the duty of the supervisor within one year from the passage of this act, or within such further time as it may require to complete the same and annually thereafter, to cause to be inspected and examined by a competent bacteriologist, appointed by the commission, all shellfish grounds and other places within the state from which shellfish are taken, planted, cultivated or handled, with a view to ascertaining the sanitary condition of such shellfish grounds and other places, and the fitness of the shellfish in such places, or which may be taken therefrom, for use as articles of food, except that shellfish grounds used exclusively for the growing or cultivating of seed oysters shall not be subject to the sanitary examination and inspection provided for in part X.

[As amended by chapter 796, Laws of 1913.]

2. Cancellation of certificate. The commission may, if it deems it necessary at any time, have the whole or any part of such lands and waters inspected or such places, and if the shellfish thereon or therein are found unfit for consumption, cause a certificate of inspection thereof, theretofore issued, to be canceled on ten days' written notice to the holder.

3. Service of notice. Such notice shall be in writing and shall be served on the person to whom

the certificate is issued, and may be served by delivering the same to him personally or by post by letter addressed to the person on whom it is to be served at his last known place of residence, and if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post. When the person is a corporation, notice shall be served by delivering the same or by sending it by post addressed to the office or principal place of business of such corporation.

4. **Report.** Such bacteriologist shall immediately after each examination and inspection make a report thereof to the supervisor of the sanitary condition of the various shellfish grounds and other places and their products inspected and examined by him.

[As amended by chapter 508, Laws of 1913.]

§ 311. **Duties of state commissioner of health.** For the purpose of making such inspection, the commission may request the state commissioner of health to designate and assign, and it shall be the duty of the state commissioner of health, upon such application, to designate and assign one or more sanitary inspectors who shall, under the direction of the supervisor of marine fisheries, visit such shellfish grounds and places, and examine them, and the shellfish found thereon or therein, and immediately report to said supervisor the result of such examination.

§ 312. Record and certificate of inspection; fee; termination; revocation; transfer; notice of condition of public shellfish grounds.

1. Record and certificate of inspection. The supervisor shall determine from either or both of the reports mentioned, or such other inspection as he may order in the two preceding sections, whether such shellfish grounds, waters or places, and the product thereof are in a sanitary condition. He shall keep or cause to be kept an official record of such examination and inspection, and shall immediately thereafter issue a certificate setting forth the date and the result of such examination and inspection to the owners, lessees or persons in possession of such oyster beds and other shellfish grounds, waters or places as shall be found to be in good sanitary condition and the product of which shall be found fit for use as food. The said certificate shall also state the name, place of residence and post-office address of the owner, lessee or person in possession of the grounds from which oysters or other shellfish are taken, or upon which the same have been planted or cultivated, and shall contain a brief description of the said shellfish grounds, waters or places, their location by lot number, if possible, and the number of acres in each lot or parcel.

2. Fees. The supervisor at the time of issuing such certificate and annually thereafter shall charge and receive therefor from each person to whom a

certificate is issued a fee at the rate of twenty-five cents for each acre of shellfish grounds so certified to be in a sanitary condition except that the "free bay" oyster lands in the town of Brookhaven, Suffolk county, shall be exempt from the tax of twenty-five cents per acre so long as it remains "free bay," and a fee of five dollars for the examination and certification of each place used for the water storage and floating of shellfish.

3. **Termination.** Each certificate unless sooner revoked shall be void after the first day of January next succeeding its issuance. Provided that all certificates heretofore issued shall be valid until the first day of January next unless sooner revoked.

4. **Revocation.** The supervisor may revoke any certificate as to any lot or parcel which may thereafter become unsanitary, and a new certificate shall in such case be issued for the remaining lots or parcels without fee.

5. **Transfer.** In case any shellfish grounds or parcels thereof are sold or leases thereof transferred, a new certificate shall be issued to the purchaser or purchasers thereof upon application to the supervisor.

6. **Notice of conditions of public shellfish grounds.** The supervisor shall, after examination and inspection of public shellfish grounds, give to the public,

notice of the result of such examination and inspection. Such notice shall be published in a newspaper published in the county and posted in three public and conspicuous places in the town in which said shellfish grounds are located. The actual expense of making such examination and inspection shall be a charge upon and paid by the towns within which such public shellfish grounds are located and the fee provided for in subdivision two of this section shall not apply in such case.

For the purposes of this section the term public shellfish grounds shall be taken to mean shellfish grounds owned by the state or any municipality but which have not been leased or otherwise granted to any person or private corporation.

[As amended by chapter 508, Laws of 1913, and chapter 426, Laws of 1915.]

§ 313. Prohibited sale of shellfish unless sanitary condition be certified; certificate to be furnished.

1. Sale of shellfish prohibited unless sanitary condition be certified. After such notice or report of sanitary condition as prescribed in sections three hundred and ten, three hundred and eleven and three hundred and twelve of this chapter, has been given, any person who shall ship, sell, cause to be sold, or offer or expose for sale, within this state, for consumption as food, any oyster or other shellfish taken from shellfish grounds or places within the jurisdiction of or forming part of the state of New York, which have not been so certified to be in

good sanitary condition and the product of which has not been so certified to be fit for use as food, shall be guilty of a misdemeanor.

2. **Certificate to be furnished.** The supervisor, at the request of any person interested, shall furnish a certificate of the result of any such examination where the shellfish are reported as not fit for consumption. Every certificate, duly signed and acknowledged, of a bacteriologist or other expert employed by the commission or any analysis, examination or inspection made by such bacteriologist or expert with respect to any matter or product which the commission has authority to examine, or cause to be examined, shall be presumptive evidence of the facts therein stated.

§ 314. **Taking oysters in South bay.** Oysters, spawn or shells shall not be taken from South bay in Suffolk county from the public waters of this state from May thirty-first to September first, both inclusive; or taken between sunset and sunrise at any season. Oyster shells taken from the public waters of said bay in said county shall be returned to the water where taken within ten minutes after being-taken. Blade or scraper tongs, commonly known as dredges, used to take shellfish shall not be used on public lands in waters of said bay in said county. This section is subject to the provisions of section three hundred and thirty-four of this article.

§ 315. Blue point oysters. No person, firm or corporation shall sell or offer for sale any oysters, or label or brand any package containing oysters for shipment or sale, under the name of blue point oysters, other than oysters that have been planted and cultivated at least three months in the waters of Great South bay in Suffolk county.

§ 316. Shellfish beds protected. Shellfish shall not be taken from sunset until sunrise. No person shall take, carry away, interfere with or disturb oysters or clams of another lawfully planted or cultivated, or remove any stakes, buoys or boundary marks of a planted or cultivated bed. The possession of dredges, rakes or tongs overboard on any such beds shall be deemed prima facie evidence of a violation of this section.

§ 317. Dredging and raking for shellfish. Dredges for taking of shellfish from public or unleased lands shall not be operated from any boat propelled otherwise than by sail or oars.

§ 318. Scallops; size limit. Scallops shall not be taken or possessed, if less than one year old, except from legally planted or cultivated oyster lands. Nothing in this section shall be construed to permit the sale of scallops of less than one year of age for food.

[As amended by chapter 508, Laws of 1913, and chapter 426, Laws of 1915.]

§ 319. Resident only to take shellfish. No person who has not been an actual resident of this state for six months immediately prior to the time of engaging in the taking of shellfish, shall take shellfish from the public lands in or under the waters of this state. Nothing in this section shall apply to a person who may be employed as a deck hand, engineer or fireman on a boat whose captain or owner may be a lawful resident.

§ 320. Starfish to be destroyed. Starfish and other natural enemies of shellfish shall be destroyed when taken, and shall not be returned alive to the waters of the state.

§ 321. Prohibited; taking of lobsters under certain size. Lobsters less than four and one-eighth inches measured on the carapace shall not be taken, possessed or sold. No person shall at any time take any female lobsters in spawn or with eggs attached, unless upon the written order of the state fish culturist or the supervisor.

§ 322. Size of openings in lobster traps. All lobster traps constructed or used after the thirty-first day of December, nineteen hundred and fourteen, shall have at the bottom of the trap on each side thereof an opening not less than one and one-half inches wide. Such openings must remain clear and undiminished.

[As amended by chapter 37, Laws of 1915.]

§ 323. Residents only to take lobsters, except in certain waters. No person who has not been an actual resident of this state for six months immediately prior to the time of engaging in the taking of lobsters, shall take lobsters from the public waters of the state, except that in the public waters of the state lying to the west of a line drawn from Rocky Point to Race Rock and thence extended in the same direction until it intersects with the state boundary line between New York and Connecticut, licenses to take lobsters may be issued to non-residents upon payment of the following fees: For boats of ten or more tons measurement, thirty-five dollars; for boats of five to ten tons measurement, twenty-five dollars; for all other boats, twenty dollars, except that for boats carrying one man only the license fee shall be fifteen dollars. Such boats, when so licensed, shall carry displayed upon them the license number, of such size and placed in such position upon the boat or rigging as may be prescribed by the commission. Such licenses shall not be transferable and shall be conditioned that the holder shall observe the fishery laws of this state, and shall at any time and without delay permit protectors and peace officers of this state to board such boats and inspect the cargo or contents. All such licenses shall expire upon the thirty-first day of December following the date of

issue, and any license may be revoked at any time at the pleasure of the commission.

[As amended by chapter 170, Laws of 1916.]

§ 324. Licenses for vessels; non-residents; unlawful use of food fish.

1. There shall be a license fee of fifty dollars per annum for each steam vessel of fifty tons or over and twenty-five dollars for every other vessel engaged in fishing with nets in the tidal waters of the state, for the purpose of making oil or fertilizer from the fish product taken. The owner or owners, lessee or lessees, or persons operating, running, managing or fishing with any such vessel, using the same in fishing with nets in the tidal waters of the state for the purpose of making oil or fertilizer from fish products taken, who shall not before engaging in such business procure of the commission such license as herein provided, shall be guilty of a misdemeanor and punishable by a fine of not less than three hundred dollars for each offense.

2. **Non-residents.** Non-residents of the state engaged in fishing with nets in the tidal waters of the state for food fish shall be required to pay a license fee of five dollars to the state for each vessel used in fishing with nets in such waters. A non-resident using any vessel for the purpose of taking fish with nets from the tidal waters of the state, or within three nautical miles of the coast line, without

first having obtained from the commission the necessary license or licenses as herein provided, is guilty of a misdemeanor and shall be liable to a penalty of one hundred dollars, and to an additional penalty of twenty-five dollars for each vessel so used.

3. Unlawful use of food fish. It shall be unlawful for any person to render food fish into oil or fertilizer, and any person taking or using food fish for such purpose shall be guilty of a misdemeanor and punishable by a fine of not less than one hundred dollars for each offense.

[As amended by chapter 521, Laws of 1916.]

§ 325. Polluting waters. Sludge, acid or refuse from oil works, sugar houses or other manufactories, except refuse from the manufacture of oil from menhaden or other fish, sewage or any substance injurious to oyster culture or fish, shall not be placed or allowed to run into waters of the state in the marine district, and upon it appearing to the satisfaction of the supervisor that oyster beds or such waters have become polluted from one or more of these causes, it shall be his duty to cause complaint to be made in a criminal action against the person or persons so offending, and such person or persons so offending shall also be liable in damages to persons injured, in addition to the penalties hereinafter provided.

§ 326. Garbage not to be thrown in certain waters. Garbage, cinders, ashes, oils, acids, sludge or refuse

of any kind shall not be thrown, dumped, or permitted to run, from any vessel into any bay or harbor, or into Long Island sound within two miles of the shore west of a line drawn from Old Field point due north to the boundary line between New York and Connecticut.

§ 327. Prohibited use of nets in inlets. Nets shall not be set, placed or maintained in Rockaway inlet, Jones' inlet, Zack's inlet or Fire Island inlet within an inshore radius of one-half mile of the mouth of any such inlets. The point from which such measurement is to be taken shall be the centre of the channel where such channel crosses the bar at the mouth of said inlet.

§ 328. Prohibited; nets in the Harlem river and adjacent waters. Nets other than nets used for catching lobsters or crabs shall not be used in the Harlem river, East river or Long Island sound from Hell Gate to the northern boundary line of the city of New York or in any of the bays, creeks or confluent brooks within said limit.

§ 329. Richmond county and Raritan bay. Fish, except shad, in Raritan bay or waters adjacent thereto in Richmond county shall not be taken except by angling. Shad shall not be taken except by pounds or drifting shad nets from March fifteenth to June fifteenth, both inclusive.

[As amended by chapter 54, Laws of 1913.]

§ 330. Jamaica bay and adjacent waters. Nets shall not be set, placed or maintained in the arm of the sea between Rockaway point and Coney Island or any waters northerly of a line drawn from the extreme westerly point of Rockaway point on the south side to the municipal bath houses on Coney Island, including Jamaica, Flatlands, Grassey and Sheepshead bays and all other bays and inlets in or making out from said arm of the sea. The inlets from the ocean to said bays shall not be obstructed by any device so as to prevent the passage of fish at any time, provided that nets may be used from October tenth to December thirty-first in that part of said waters lying southerly of Barren island and toward the sea from a line drawn from the most southerly point of Barren island to the northeasterly point of Rockaway point and a line drawn from the most westerly point on Barren island to the most easterly point of Coney Island. Refuse and debris may be taken with nets having meshes with not less than a six-inch bar. Minnows or shrimp for bait may be taken by hand nets not more than forty feet long and four feet deep. Eels may be taken with a spear or eel weir.

§ 331. Size of mesh in Coney Island creek. The mesh of nets used in Coney Island creek, or within one-half mile of the mouth thereof in Gravesend bay, shall not be less than four inches square. Eel

and flounder hoop nets may be used from October fifteenth to March thirty-first, both inclusive, provided there be in said creek at low tide a passage unobstructed by nets not less than ten feet wide for the passage of boats and fish, and provided that all stakes used in connection with said nets shall show plainly above the water at high tide.

§ 332. Rockaway bay, Jones' inlet and adjacent waters. Nets shall not be used in Jones' inlet inside of the first spar buoy or inside of a line drawn three-quarters of a mile easterly and westerly from said buoy or in any of the following creeks, runs or water running into or tributary to Jones' inlet, namely: Long creek, below the sharp point of the marsh; Sea Dog creek, below a line drawn northerly and southerly from the easterly end of Elder island; Shell creek, below the point of the gunning lead; Swift creek, below the upper point of Swift creek on the easterly side thereof; Haunt's creek, below a line drawn from the upper side of Haunt's creek point and Old Ben's point.

[As amended by chapter 508, Laws of 1913.]

§ 333. Recording and fees. All franchises, grants and leases of lands for shellfish culture, and assignments thereof, shall be recorded in the office of the supervisor, and all records thereof, theretofore or hereafter made, in such office or in any public office, and copies of such records when duly certified by the

officer having the custody thereof, shall be admitted in evidence in any action or proceeding, civil or criminal, in which they are material. Fees shall be paid to the state and collected by the supervisor, as follows, to wit, for the filing of each application for a grant or lease of land under water, twenty-five cents; for recording each instrument of lease, grant or assignment, one dollar; for each copy of any record of said office furnished, ten cents a folio; for each relocation survey, seven dollars per day for the time occupied, together with the actual traveling expenses of the surveyor. Any person requiring an original or relocation survey shall furnish a vessel at the place where such survey is to be made, and the necessary assistance to do the work, at his own expense.

§ 334. Supervisors of Nassau and Suffolk counties. The board of supervisors of the counties of Nassau and Suffolk may respectively pass laws not inconsistent with the provisions of this article regulating and controlling the taking of fish, and shellfish in arms of the sea and fish bait from public lands of such counties, and prescribe what violations thereof shall be punishable as misdemeanors and impose penalties, the same to be enforced under the provisions of article three of this chapter.

§§ 335-355. [Repealed by chapter 521, Laws of 1916.]

PART XI.

Private Parks.

Section 360. Laying out private parks.

- 361. Notices in private parks.
- 362. Protection of private lands **not parks.**
- 364. Signs not to be defaced.
- 365. Fish and game protected.
- 366. State game refuges.
- 367. Penalties.

§ 360. Laying out private parks. A private park for the propagation and protection of fish, birds or quadrupeds may be established by the owner or person having the exclusive right to hunt or fish on private land or land and water, by publishing once a week for not less than four weeks in a newspaper printed in the county where such land or land and water are situated, a notice substantially describing the same and stating that it will be used as a private park to propagate and protect fish, birds or quadrupeds. Part of a private lake or pond may be laid out in a private park, if all riparian owners, including owners of the bed thereof, consent thereto in writing. If the state of New York be such owner such consent may be given by the commission. But waters stocked with fish by the state at any time after April seventeenth, eighteen hundred and ninety-six, shall not be laid out in any such park. If waters or lands are hereafter stocked by the state with fish or game

with the consent of the owner, the provisions of part XI shall no longer apply thereto.

[As amended by chapter 508, Laws of 1913.]

§ 361. Notices in private parks. Notices or signboards not less than one foot square warning all persons against hunting or fishing or trespassing thereon for that purpose, shall be conspicuously posted and maintained on a private park not more than forty rods apart close to and along the entire boundary thereof, and there shall be so placed at least one notice or signboard on each side and one at each corner of such park and where an outer boundary runs along or under any waters, the nearest shore or banks within the park shall be deemed the boundary for the purpose of posting such notices or signboards. It shall also be considered due service of notice for trespass upon any person or persons, by serving them personally in the name of the owner or owners of such private park with a written notice containing a brief description of the premises, warning all persons against hunting or fishing or trespassing thereon.

[As amended by chapter 508, Laws of 1913, and chapter 746, Laws of 1913.]

§ 362. Protection of private lands not parks. An owner or person having the exclusive right to hunt or fish upon inclosed or cultivated lands, or to take fish in a private pond or stream and desiring to protect the same, shall maintain notices or

signboards, of the size and posted and maintained in the manner described in the preceding section.

[As amended by chapter 508, Laws of 1913.]

§ 363. [Repealed by chapter 508, Laws of 1913.]

§ 364. Signs not to be defaced. No person shall injure, deface, or remove, a notice or signboard, placed or maintained pursuant to the provisions of this article.

[As amended by chapter 508, Laws of 1913.]

§ 365. Fish and game protected. No person shall take or disturb fish, birds or quadrupeds on any private park or private lands or trespass thereon for that purpose, after notices are posted as prescribed herein; or, if the notices have been once posted or the land established as a private park, after personal service upon him in the name of the owner or owners of a written or printed notice containing a description of the premises and warning all persons against hunting or fishing or trespassing thereon.

[As amended by chapter 508, Laws of 1913, and chapter 92, Laws of 1914.]

§ 366. State game refuges. Any land owned by the state, enclosed as defined by subdivision twenty-three of section three hundred and eighty of this chapter, except lands in the Adirondack and Catskill parks, may be set aside by the conservation commission as a game refuge upon publishing the notice mentioned in section three hundred and sixty of this chapter and upon posting and maintaining the notices

or signboards in the manner described in section three hundred and sixty-one of this chapter. The commission may purchase in the name of and for the use of the state in any town of the state outside the limits of the Adirondack and Catskill parks, lands containing not less than one hundred acres, or may purchase the shooting and fishing rights in connection with such lands, and may establish thereon a game refuge upon publishing and posting the notices as above provided. No person shall take or disturb fish, birds or quadrupeds on such state game refuges or trespass thereon for that purpose, after the notices are published and posted as above prescribed. Such lands shall remain a game refuge and private park for the propagation and protection of fish, birds or quadrupeds as long as such lands remain the property of the state, or until the commission shall by an order to be published in the manner prescribed by section three hundred and sixty, permit the taking of fish, birds or quadrupeds upon such premises.

[As added by chapter 92, Laws of 1914.]

§ 366-a. The conservation commission is also authorized to set aside the following tract of land as a game refuge surrounding the game farm at Sherburne, Chenango county, New York, bounded and described as follows: Commencing at a point in the village of Sherburne at the intersection of Main and State streets, and running thence northerly in the highway leading from Sherburne village to

Earlville village and crossing the Lackawanna railroad track at Baldwin station; thence westerly from said Baldwin station about eighty-eight rods to a bridge across the east branch of the Chenango river where the said Sherburne-Earlville highway is intersected by the Earlville and Sherburne west-hill highway; and thence southerly on the Sherburne west-hill highway two miles to Sherburne west-hill, and crossing at Sherburne west-hill the highway leading from Sherburne village to Smyrna village; and running thence south from Sherburne west-hill along the Merrill's ridge road to Sherburne four corners; being two miles and three hundred and sixteen rods; and running thence northeasterly from Sherburne four corners past the school house on the road leading from Sherburne four corners to Sherburne village; and thence easterly across the Chenango river and along the Pratt road, being about three miles and one hundred and sixty rods, to the place of beginning.

[Added by chapter 523. Laws of 1916.]

§ 367. [Repealed by chapter 521, Laws of 1916.]

PART XII.

Breeding, Importation and Sale of Fish and Game

Section 370. Lake trout and other fish; transportation of; sale during close season.

371. Sale of trout raised in private hatcheries.

Section 372. Breeding of elk, deer, pheasants, and ducks, et cetera.

373. Certain mammals and birds may be imported from without the United States and sold.

374. Fees.

375. Storage of fish.

376. Penalties.

§ 370. Lake trout and other fish; transportation of; sale during close season. Fish that may be lawfully sold under the provisions of this article, if lawfully taken in another state or country, may be transported into this state and possessed during the open season prescribed by this article. Provided, however, that no person shall transport into this state, or possess, any fish caught in that portion of Lake Champlain or its tributaries known as Missisquoi bay, lying and being in the province of Quebec, or the Richelieu river, which is the outlet of said lake, at any time. During the close season therefor any person may buy, possess and sell lake trout, whitefish, pickerel, pike, pike perch, short-nosed sturgeon and striped bass taken without the state, provided, however, such person shall keep a book of record in which he shall enter the name, residence and post-office address of every person from whom he shall buy, sell to or ship such fish and at all times shall permit the commission, or any member or officer thereof to make a full exam-

ination of his books and papers relating to the purchase and sale of fish, and when required by the commission, furnish the original invoice or invoices, freight or express receipts used in the transportation thereof.

[As amended by chapter 508, Laws of 1913.]

§ 371. Sale of trout raised in private hatcheries. Any person desiring to engage in the business of propagating and selling trout raised in a private hatchery may make application in writing to the commission for a permit so to do. The commission, when it appears that such application is made in good faith, shall issue to such applicant a hatchery permit to propagate, raise and sell trout during the entire calendar year, provided, however, that before any trout shall be transported, sold or offered for sale, the same shall be duly tagged under regulations prescribed by the commission. Upon obtaining a like permit, trout raised in a private hatchery without the state, may be possessed and sold within this state, provided the same shall be tagged as prescribed under rules and regulations of the commission.

[As amended by chapter 298, Laws of 1915, and chapter 521, Laws of 1916.]

§ 372. Breeding of elk, deer, pheasants and ducks; license; manner of killing; tagging; transportation; sale; reports; fencing; revocation of license.

1. License. Any person desiring to engage in the business of raising and selling domesticated Ameri-

can elk, white-tailed deer, European red deer and fallow deer, roebuck, pheasants, mallard ducks and black ducks, or any of them, in a wholly enclosed preserve, or entire island, of which he is the owner or lessee, may make application in writing to the commission for a license so to do. The commission, when it shall appear that such application is made in good faith, shall, upon the payment of a fee of five dollars, issue to such applicant a breeder's license permitting such applicant to breed and raise domesticated American elk, whitetailed deer, European red deer and fallow deer, roebuck, pheasants, mallard ducks and black ducks, or any of them, on such preserve or entire island, and to sell the same alive at any time for breeding or stocking purposes and to kill and transport the same and sell the carcasses thereof for food as hereinafter provided. Such license shall expire on the last day of December in each year at midnight.

2. **Manner of killing.** Any person to whom such a license shall have been issued may kill such elk, deer, pheasants or ducks in the manner and at the time herein set forth, as follows: Elk, deer, pheasants, mallard ducks or black ducks may be killed in any manner at any time, but mallard ducks or black ducks, killed by shooting, shall not be bought, sold or trafficked in, except under such rules and regulations as the commission may prescribe. Any person

may possess or sell such elk, deer, pheasants or ducks for food as hereinafter set forth.

3. **Tagging.** No elk, deer, pheasants or ducks, killed as aforesaid and intended for sale, shall be shipped, transported, sold or offered for sale, unless each quarter and each loin of each carcass of such elk or deer, and each pheasant or duck shall have been tagged under the supervision of the commission with an indestructible tag or seal, which shall be supplied by the commission. The quarters and loins of the carcass of such elk or deer, and the carcasses of such pheasants or ducks, when tagged as aforesaid, may be possessed, sold or offered for sale at any time. Every game protector or person designated by whom such elk, deer, pheasant or ducks shall have been tagged, shall, within five days thereafter, make and file with the commission a written report thereof, said tags or seals shall remain affixed as aforesaid until the quarters or loins of such elk or deer, or the carcasses of such pheasants or ducks shall have been wholly consumed, and the sale of a quarter, loin, or any larger portion of any such elk or deer, or the carcass of any such pheasant or duck, which shall not at the time have affixed thereto the tag or seal aforesaid, shall constitute a violation of this section, provided, however, that the keeper of a hotel, a restaurant, a boarding house or a retail dealer in meat or a club, may sell portions of a quarter or loin of

any such elk or deer, or of the carcass of any such pheasants or ducks so tagged or sealed as aforesaid, to a patron or customer for actual consumption, and no license shall be required of such person or club.

4. **Transportation.** Common carriers may receive and transport during the open season therefor carcasses, or parts thereof, of elk, deer, pheasants or ducks tagged as aforesaid, but to every package containing such carcasses, or parts thereof, shall be affixed a tag or label, upon which shall be plainly printed or written the name of the person to whom such license was issued and by whom such elk, deer, pheasants or ducks were killed, the name or names of the person or persons to whom such elk, deer, pheasants or ducks are to be transported; the name of the game protector or other person by whom such elk, deer, pheasants or ducks were tagged; the number of carcasses or portions thereof contained therein, and that the elk, deer, pheasants or ducks were killed and tagged in accordance with the provisions of this section.

5. **Sale.** No person shall sell or offer for sale any venison or birds killed and tagged as aforesaid without first obtaining a license so to do from the commission, upon such terms and conditions as the commission may prescribe, and any such license may be revoked at the pleasure of the commission. The

said tags or seals shall remain affixed as aforesaid until the quarters or loins of such elk or deer, or the carcasses of such pheasants or ducks shall have been wholly consumed, and the sale of a quarter, loin, or any larger portion of any such elk or deer, or the carcass of any such pheasant or duck, which shall not at the time have affixed thereto the tag or seal aforesaid, shall constitute a violation of this section, provided, however, that the keeper of a hotel, a restaurant, a boarding house or a retail dealer in meat or a club, may sell portions of a quarter or loin of any such elk or deer, or of the carcass of any such pheasants or ducks so tagged or sealed as aforesaid, to a patron or customer for actual consumption, and no license shall be required of such person or club.

6. **Reports.** On or before the fifteenth day of April of each year every person, to whom a license shall have been issued as aforesaid, shall make a report to the commission covering the calendar year ending the thirty-first day of December in which said license was issued, which said report shall state the total number of elk, deer, pheasants, mallard and black ducks killed, sold or transported, as permitted by the provisions of this section, during the said period.

Such reports shall set forth the name of the person to whom such elk, deer, pheasants or ducks were sold or transported; the name of the game protector or person designated in whose presence

such elk, deer, pheasants or ducks were tagged, and such reports shall be verified by the affidavit of the person to whom such license was issued, or if the license was issued to a corporation, then by an officer thereof.

7. **Deer preserves to be fenced.** A preserve used for the breeding of elk or deer, pursuant to this section, shall be surrounded by a fence of wire or other material of a pattern to be approved by the commission of a height not less than seven feet.

8. **Revocation of license.** If any person to whom any such license shall have been issued shall be convicted of a violation of the conservation law in relation to fish and game, the commission may revoke the license of such person, and thereafter no similar license shall be issued to such person.

[As amended by chapter 508, Laws of 1913, and chapter 92, Laws of 1914, and chapter 466, Laws of 1915, and chapter 521, Laws of 1916.]

§ 373. Certain mammals and birds may be imported from without the United States and sold. The unplucked carcasses of pheasants of all species, Scotch grouse, European black-game, European black plover, European grey-legged partridge, European red-legged partridge, Egyptian quail, and the carcasses of European red deer, fallow deer, roebuck and reindeer may be imported into this state from without the United States and sold therein at any time, provided, nevertheless, that immediately upon

their importation and before they shall have been sold by the importer, there shall be affixed to each bird and to each quarter and each loin of each deer a tag or seal in the manner provided by section three hundred and seventy-two. The said tags or seals shall remain, as aforesaid, until the quarters and loin of such deer, and each bird to which it shall be affixed shall have been consumed, and the sale of any quarter, loin or larger portion of such deer, or of any portion of such bird which shall not at the time have affixed to it the tag or seal aforesaid shall constitute a violation of this section. Provided, nevertheless, that the keeper of a hotel, a restaurant, a boarding house or a retail dealer in meat or a club may sell portions of a quarter or loin of any such deer so tagged, or portions of any birds so tagged to a guest, customer or member for consumption. No dealer other than the keeper of a hotel, a restaurant, a boarding house or a retail dealer in meat or a club shall sell or offer for sale any such game imported and tagged as aforesaid without first obtaining a license so to do from the commission upon such terms and conditions as the commission may prescribe. Such license shall expire on the last day of December in each year at midnight unless sooner revoked by the commission.

[As amended by chapter 508, Laws of 1913, and chapter 402, Laws of 1916.]

§ 374. Fees. The commission shall be entitled to receive and collect for each tag or seal affixed to

the carcass of any animal or bird, as provided by sections three hundred and seventy-two and three hundred and seventy-three, the sum of five cents; and the sum of one cent for each tag or seal affixed to each trout as provided by section three hundred and seventy-one hereof.

[As amended by chapter 521, Laws of 1916.]

§ 375. Storage of fish. Any dealer in fish or frogs, duly licensed as herein provided, may hold during the close season, in a store house to be designated by the commission, such part of his stock of fish or frogs as he has on hand undisposed of at the beginning of the close season. Such dealer shall give a bond to the people of the state conditioned that he will not, during the close season ensuing, sell, use, give away, or otherwise dispose of any fish or frogs which he is permitted to possess during the close season; that he will not in any way, during the time when such bond is in force, violate any provision of this article; the bond may also contain such other provisions as to the inspection of the fish or frogs possessed, as the commission shall require, and shall be subject to the approval of the commission as to amount and form thereof, and the sufficiency of the sureties. But no presumption that any fish or frog is lawfully possessed under the provisions of this section shall arise until it affirmatively appears that the provisions thereof have been complied with.

[As amended by chapter 92, Laws of 1914.]

§ 376. [Repealed by chapter 521, Laws of 1916.]

§ 377. Certain mammals and birds may be imported from without the state and sold. Any person engaged in the business of raising and selling domesticated American elk, whitetail deer, European red deer and fallow deer, roebuck, pheasants, mallard ducks and black ducks, or any of them, in a wholly enclosed preserve or entire island, of which he is the owner or lessee, under a breeder's law providing for the tagging of all preserve bred game and otherwise similar in principle to the law of the state of New York in such case made and provided, may make application in writing to the commission for a permit to import such mammals or birds into the state of New York and sell the same. In the event that the commission shall be satisfied that the said mammals and birds are bred in captivity and are killed and tagged under a breeding law similar in principle to that of the state of New York, upon the payment of a fee of five dollars, together with such additional sum as the commissioner may determine to cover the necessary cost of inspection, the commission may in its discretion issue a revocable permit in writing to such applicant to import such mammals and birds raised as aforesaid into the state of New York and to sell the same, in which case the provisions of sections three hundred and seventy-two, three hundred and seventy-three and three hundred and seventy-four of the conservation law, in so far as the same are applicable, shall apply.

[Added by chapter 406, Laws of 1916.]

PART XIII

Definitions and Construction

Section 380. Definitions.

381. Application of article.

382. Construction.

383. Repeal.

384. Time of taking effect.

§ 380. Definitions. The following words and phrases used in this article are defined as follows:

1. "Commission" is synonymous with conservation commission.

2. Gender and number shall be disregarded in construing this article whenever it is necessary to carry out the spirit thereof.

3. "Person" includes a copartnership, joint-stock company or corporation.

4. "Open season" is the time during which fish, fowl, birds and quadrupeds may be taken. If in accordance with the provisions of this article the open season commences or ends on Sunday, it shall be deemed to commence or end as the case may be on the Saturday immediately preceding such Sunday.

5. "Close season" is the time during which fish, fowl, birds and quadrupeds cannot be taken.

6. "Fish." Fish includes "fish protected by law," "fish protected by this article," and "food-fish." Whenever the words "fish protected by law" or "fish protected by this article" are used, reference

is had only to fish for which a closed season or size limit is provided. Whenever the words "food-fish" are used, reference is had to all species of edible fish.

7. "Game" includes wild game, game protected by law, domestic game and imported game.

[As amended by chapter 508, Laws of 1913.]

8 "Wild game" and "game protected by law" include all game birds as defined and mentioned in section two hundred and ten, and all quadrupeds for which a close season is provided.

[As amended by chapter 508, Laws of 1913.]

9. "Domestic game" includes quadrupeds and birds mentioned in section three hundred seventy-two.

10. "Imported game" includes quadrupeds and birds mentioned in section three hundred seventy-three.

11. "Wild deer" includes all deer not lawfully held in private ownership in a preserve wholly enclosed by a fence, as provided by section three hundred seventy-two hereof.

12. "Grouse" includes ruffed grouse, partridge and every member of the grouse family.

13. "Trout" includes speckled trout, brown trout, rainbow trout, red-throat trout and brook trout.

14. "Lake trout" for the purposes of this article includes landlocked salmon and ouananishe.

15. "Black bass" includes Oswego bass.

16. "Pickerel" and "pike" include the great northern pike, commonly called pickerel, pond pickerel, chain pickerel, grass pickerel and banded pickerel.

17. "Pikeperch" includes walleyed pike, commonly called pike, and yellow pike.

[Re-enacted without change, chapter 508, Laws of 1913.]

18. "Shell fish" includes oysters, scallops and all kinds of clams.

19. "Pheasants" includes Hungarian dark-necked pheasant, ring-necked, commonly called English, Mongolian or Chinese pheasant.

20. "Angling" means taking fish by hook and line in hand or rod in hand; or if from a boat not exceeding two lines with or without rod to one person.

21. "Hooking" is defined to mean taking or attempting to take fish not attracted by bait or artificial lure, by snatching with hooks, whether baited or unbaited, gangs or similar devices.

22. "Plumage" includes any part of the feathers, head, wings or tail of any bird, and wherever the word occurs in this article reference is had to plumage of birds coming from without the state as well as to that obtained within the state, but it shall not be construed to apply to the feathers of birds of paradise, ostriches, domestic fowl or domestic pigeons.

23. Where lands are referred to as "enclosed" or "wholly enclosed" the boundary may be indicated by wire, ditch, hedge, fence, road, highway, water or by any visible or distinctive manner which indicates a separation from the surrounding contiguous territory, except as otherwise provided.

24. "Inhabited" means a permanent occupancy by a species as contrasted with a temporary presence of an occasional individual.

25. "Nets" includes seines, gill nets, pound nets, trap nets, scap nets, fyke nets, dip nets, scoop nets and stake nets.

26. "Taking" includes pursuing, shooting, hunting, killing, capturing, trapping, snaring and netting fish and game, and all lesser acts such as disturbing, harrying or worrying, or placing, setting, drawing or using any net or other device commonly used to take fish and game, whether they result in taking or not; and includes every attempt to take and every act of assistance to any other person in taking or attempting to take fish or game. A person who counsels, aids or assists in a violation of any of the provisions of this article, or knowingly shares in any of the proceeds of said violation by receiving or possessing either fish, birds or game shall be deemed to have incurred the penalties provided in this article against the person guilty of such violation. Whenever taking is allowed by law, reference is had to taking by lawful means and in lawful manner.

27. "Hunting" includes pursuing, shooting, killing, capturing and trapping game or quadrupeds, and all lesser acts such as disturbing, harrying or worrying, or placing, setting, drawing or using any device commonly used to take game or quadrupeds whether they result in taking or not; and includes every attempt to take and every act of assistance to any other person in taking or attempting to take game or quadrupeds.

[Subd. 27 added by chapter 92, Laws of 1914].

28. "Immediate family" as used in subdivision eight of section one hundred and eighty-five of this chapter includes all persons who are related by blood, marriage or adoption and domiciled in the house of the owner or lessee.

29. For the purposes of this chapter a dog shall be deemed to be "at large" when it is outside of the owner's residence or a fenced enclosure immediately surrounding or adjacent to such residence.

[Subds. 28 and 29 added by chapter 521, Laws of 1916.]

§ 381. Application of article. In all cases where possession, purchase or sale of fish or game or of the flesh of any quadruped, bird or fish is unlawful, possession, purchase or sale of the same species of fish or game or of the flesh of the same species of quadruped, bird or fish coming from or taken without the state, shall be deemed to be and is, except as otherwise expressly provided herein, unlawful.

[As amended by chapter 508, Laws of 1913.]

§ 382. Construction. This article is intended to be a restatement of existing law with such changes as clearly appear. The term of office of the present employees of the commission in the division of fish and game shall not be affected, except as herein specifically provided. Nothing in this article shall be construed as amending or repealing any provisions of the code of criminal procedure nor of the penal law. Any of the provisions of this article inconsistent with the provisions of the code of criminal procedure or of the penal law shall be held to be effective for the purposes of this article only.

[As amended by chapter 508, Laws of 1913, and chapter 521, Laws of 1916.]

SCHEDULE OF LAWS REPEALED.

Laws of	Chapter	Section
1911....	647....	193 as amended by chapter 176 of the laws of 1915.
1912....	318....	161, 187, 203, 223, 258, 284, 335, 367 and 376.
1913....	508....	152, subd. 5, 186, 203, 223, 258, 284, 355, 367 and 376.
1914....	92....	355 and 367.
1915....	176....	193.

ADDITIONAL PROTECTION PERIODS IN CERTAIN LOCALITIES.

Orders now effective made by the Commission under Sec. 152. During the periods stated and in the localities named, all taking is prohibited as to the species named.

Species	County	Period	Expires
Pheasants.....	Herkimer.....	Two years.....	Oct. 1, 1918
Pheasants.....	Quesgo.....	Two years.....	Oct. 1, 1918
Pheasants.....	Delaware.....	Two years.....	Oct. 1, 1917
Pheasants.....	Oneida.....	Two years.....	Oct. 1, 1918
Pheasants.....	Montgomery.....	Two years.....	Oct. 1, 1918
Pheasants.....	Lewis.....	Two years.....	Oct. 1, 1918
Pheasants.....	Warren.....	Two years.....	Oct. 1, 1918
Pheasants.....	St. Lawrence.....	Two years.....	Oct. 1, 1918
Pheasants.....	Franklin.....	Two years.....	Oct. 1, 1918
Pheasants.....	Clinton.....	Two years.....	Oct. 1, 1917
Pheasants.....	Essex.....	Two years.....	Oct. 1, 1918
Pheasants.....	Allegany.....	Two years.....	Oct. 21, 1917
Pheasants.....	Tioga.....	Two years.....	Oct. 1, 1917
Pheasants.....	Cattaraugus.....	Two years.....	Oct. 1, 1917
Pheasants.....	Chautauqua.....	Two years.....	Oct. 1, 1917
Pheasants.....	Erie.....	Two years.....	Oct. 1, 1918
Pheasants.....	Sullivan.....	Two years.....	Oct. 1, 1918
Cotton tail rabbits..	Richmond.....	Oct. 1 to Nov. 14 and Jan. 1 to 31.	No date.
Cotton tail rabbits and varying hares.	Rockland.....	Oct. 1 to 31 and Jan. 1 to 31.	Oct. 1, 1918
Varying hares.....	Cattaraugus.....	Two years.....	Oct. 1, 1918
Black bass.....	Lake Erie and Niagara river....	June 16 to June 30.....	No date.

Species	County	Period	Expires
Black bass.....	All waters in the towns of Chester, Horicon and Johnsonsburg, Warren county.	June 16 to July 15.....	June 15, 1917
Small mouth black bass.	Lake Bonaparte, Lewis county..	June 16 to June 30.....	June 16, 1918
Black bass.....	Schroon and Paradox lakes.....	June 16 to July 15.....	June 15, 1917
Bass, pike, perch, pickerel and bullheads	Grass Lake, towns of Alexandria and Rossie, counties of St. Lawrence and Jefferson	Taking through ice prohibited	Jan. 1, 1917
Pike and pike-perch.	Butterfield lake, Jefferson county	Tip-ups prohibited.....	Jan. 1, 1917
Ruffed grouse.....	Genesee.....	Two years.....	Oct. 1, 1918
Black, gray and fox squirrels	Genesee.....	Two years.....	Oct. 1, 1918
Pike, pickerel and perch.	Clear lake, Town of Alexandria, Jefferson county.	Tip-ups prohibited.....	Jan. 1, 1921
Pickerel and pike-perch.	Goodyear lake, Town of Milford, Otsego county.	Feb. 1 to Mar. 1.....	Feb. 1, 1919
Pike, great northern pike and pickerel.	Town of Theresa, Jefferson county, Red lake, Hyde lake, Moon lake, Muscalonge lake.	Five years; five tip-ups only to be operated by one person between sunrise and sunset. Pickerel not less than 20 inches in length shall be taken or possessed.	Jan. 1, 1921
Pike-perch and pickerel.	Waters of Saratoga lake extending to Bryant's Bridge and waters of Lake Lonely, Saratoga county.	Three years; five tip-ups only to be operated by one person between 6 A. M. and 6 P. M. Said tip-ups to be removed	Jan. 1, 1919

Tip-ups.....	Dutchess county.....	from water between the hours of 6 p. m. and 6 a. m.	Oct. 1, 1921
Brook trout.....	Other creek, Dorsey creek, Skate creek, High Rock creek, Cage creek, Panther creek, Wolf creek, Robinson river, Glasby creek, Cranberry lake, inlet above High falls, Six Mile creek, Chair Rock creek, Sucker brook, East creek and Brandy creek, together with the tributaries thereto in the Towns of Fine, Clifton and Colton in the County of St. Lawrence; and Cranberry lake inlet below High falls in said towns and county. Herkimer county, Town of Russia. That the waters affected by this order are the waters of Buttermilk brook, Tainter brook, Wilts brook, Haughton brook, Bemis brook, Bingdyce brook, Smith brook and McAlister brook, in the Town of Russia, County of Herkimer. Putnam County.....	Tip-ups prohibited.....	Sept. 1, 1920
Brook trout.....	Putnam County..... Ulster County.....	Four years.....	
		Two years from April 1, 1917.....	April 1, 1919
Pheasants.....		Two years.....	Oct. 1, 1918
Pheasants.....		Two years.....	Oct. 1, 1918

RULES AND REGULATIONS.

Relating to:

- I. Nets, set and trap lines, eel weirs and eel pots.
- II. Taking minnows for bait.
- III. Buying and selling trout artificially propagated.
- IV. Propagation and sale of skunks.
- V. Possession of venison.

[Adopted by the Conservation Commission on the 10th day of December, 1912, to take effect January 1, 1913.]

I.

NETS, SET AND TRAP LINES, EEL WEIRS AND EEL POTS.

License required. 1. No nets of any kind shall be set or used for the taking of fish in Lake Erie or Lake Ontario or the inland waters of the State, or in the Hudson River south of Verplanck's Point, for the taking of fish other than migratory food fish of the sea, without a license so to do granted by the Conservation Commission.

Food fish, manner of taking. 1a. Food fish, other than migratory food fish of the sea within the limits of the marine district, shall not be taken by any person in any manner other than by

angling or in the manner expressly permitted by a license or permit duly issued by the Commission.

Application therefor. 2. No license shall be granted except upon written application made upon blanks to be furnished by the Commission and signed and sworn to by the applicant.

All applications for licenses must be endorsed by two responsible persons.

The application shall specify the size of the bar and the kind and size of the net to be used together with the length of the wings and leaders.

The Commission shall determine and fix the size of nets and the length of the wings or leaders to be used.

The Commission may refuse to grant a license to any person for any reason which to it may seem sufficient.

Each application shall be accompanied by a satisfactory bond signed by the applicant and two sufficient sureties in an aggregate penal sum equal to one hundred dollars for each net specified in the license but not exceeding three hundred dollars; each application for a boat license shall be accompanied by such a bond in the penal sum of five hundred dollars.

Failure to return to the Commission at the expiration of a license, tags issued by it, or to make the report required by rule twelve hereof is sufficient cause for denying an application for a license.

License subject to rules. 3. All licenses for nets shall be granted pursuant and subject to these rules and regulations.

Kind of nets to be used and duration of license. 4. Only such nets, to the number and of the size of the bar, with lead-ers and wings, of the length mentioned, shall be used as are specified in the license; the license shall specify the kind of nets to be used and the duration of the license; licenses shall be granted for no longer than one year; all licenses granted during the year will expire on the thirty-first day of December following, unless an earlier date is specified; nets shall be used only during and at the times specified in the license.

Revocation. 5. The Commission may revoke any license granted hereunder at any time for any reason which to the Commission may seem sufficient.

Not transferable. 6. A license issued pursuant to these rules is not transferable and if a licensed net be used by any person other than the licensee or a person in his employ, or under his immediate supervision, it shall be deemed forfeited, revoked and cancelled.

Location of nets restricted. 7. Nets shall be set or used only in the waters mentioned in the license; the setting and hauling of all nets in those waters shall at all times be under the direct supervision and control of

the Conservation Commission or person designated by it, who shall have the power to designate the location of all nets; such location once fixed shall not be changed without the written authority of said Commission or person.

No net licensed under a seine license shall be staked, anchored or otherwise fastened while in the water unless specifically permitted in the license.

Tagging of
nets.

8. The Commission shall issue with each licensed net a tag upon which shall be stamped a number corresponding with the number or numbers on the license. Such tag must be attached to the net when in use in such manner that it will be on the top of or above the water and in plain sight at all times.

Exhibition of
license.

9. The owner of each licensed boat on Lake Erie or Lake Ontario shall at all times have his license in plain sight, aboard said boat. Each licensee must exhibit his license when requested by any game protector or by any peace officer of this State or by any person designated by the Commission.

Mesh of
Nets.

10. The bar of all nets used under any license, except to take minnows for bait, shall be as follows:

Nets for taking lake trout and whitefish, not less than $2\frac{3}{8}$ -inch bar;

Nets for taking Otsego whitefish in Otsego Lake, not less than $1\frac{1}{2}$ -inch bar;

Nets for taking fish, other than lake trout and whitefish, not less than 1½-inch bar;

Nets for taking short-nosed sturgeon, not less than 2½-inch bar;

Nets for taking other sturgeon, not less than 5-inch bar.

11. Fish not allowed to be taken
 Disposal of under the license shall be carefully
 fish uninten- handled and immediately returned
 tionally taken to the water; fish which may be
 or undersized taken, if under the size limit and
 fish taken in taken in gill nets, must be disposed
 gill nets. of as provided in section 177 of the
 Conservation Law.

Reports. **12.** Every person holding a license
 shall make an annual report to the
 Commission of the number, weight and species of
 fish caught and the value of same, and return the
 tags issued to him with the license.

13. An applicant shall, at the
License fees. time of filing his application for a
 license, pay to the Commission a
 license fee as provided in the following schedule:

NET SCHEDULE

For each minnow net, per lineal foot.....	\$0.10
For each scoop, dip or scap net 10x10 feet square and under.....	1.00
For each scoop, dip or scap net over 10x10 feet square	2.00

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For each fyke net 3 foot hoop and under....	\$2.00
For each fyke net 5 foot hoop and over 3 feet	3.00
For each fyke net over 5 foot hoop.....	5.00
For each 4 foot trap net and under.....	3.00
For each 6 foot trap net and over 4 feet.....	5.00
For each 8 foot trap net and over 6 feet.....	7.00
For each trap net larger than 8 feet.....	10.00
For each machine trap in the Niagara River.	20.00
For each seine or gill net used only for taking fish not protected by law, per lineal foot..	.15
For each seine or gill net used only for taking fish protected by law, 2 cents per lineal foot. No license issued for less than \$5.00 and the maximum fee for such licenses will be....	15.00
For each sturgeon line.....	1.00
For each set-line 500 feet in length, 300 hooks to each line	1.00
For each eel pot.....	3.00
For each eel weir and trap attached thereto..	20.00
For each stake net per 100 lineal feet.....	3.00

In the waters of Lake Erie and Lake Ontario the following fees shall apply; outside of the mile and half mile limit as provided in section 276 of the Conservation Law:

For each fyke net.....	\$10.00
For each trap net.....	15.00
For each row or sail boat used in fishing gill nets	10.00

For each boat of any other kind under 10 tons gross tonnage so used.....	\$20.00
For each boat of any other kind from 10 to 15 tons gross tonnage so used.....	25.00
For each boat of any other kind from 15 to 20 ton gross tonnage so used.....	30.00
For each boat of any other kind over 20 tons gross tonnage so used \$1.50 per ton.	

Size of eel pots. **14.** Eel pots must not be more than 6 feet long, nor more than 12 inches square, if in square form. The aperture or mouth of any eel pot shall be not more than 1½ inches in its greatest diameter. There shall be no fixtures or wings of any kind attached to or used in connection with eel pots.

Size of eel weirs. **15.** For the purposes of these rules an eel weir shall consist of not to exceed two wings or leaders fastened to an eel trap; no eel trap shall have attached thereto more than one weir; the length of each weir shall be determined by the Commission or person designated by it; and the use of weirs of a greater length than that specified in the license is prohibited.

16. Eel weirs and eel pots shall not be constructed, set or used in any manner so as to unduly obstruct the natural flow of water or interfere with the free passage of boats. The use of eel weirs, the laths of which are less than 1 inch apart, is prohibited.

Each eel weir or eel pot shall have attached thereto

a tag, issued by the Commission, upon which shall be stamped a number corresponding with the number on the license. All fish, except eels, taken in an eel weir or an eel pot, must be immediately returned to the water.

Bait or trap lines to take sturgeon. 17. Bait lines or trap lines to take sturgeon shall not exceed 1,200 feet in length and the bait lines shall use Number 8-0 hooks set not less than two feet apart and be anchored on the bottom; trap lines shall use Number 10-0 hooks, set not less than six inches apart and be anchored not over three feet from the bottom. Each bait or trap line shall have attached to one end thereof a buoy which shall be above water and in plain sight at all times; each buoy shall have attached thereto a tag, issued by the Commission, upon which shall be stamped a number corresponding with the number on the license.

[As amended Feb. 24, 1914.]

Set lines. 18. Set lines other than sturgeon lines shall not be more than 500 feet in length nor contain more than 300 hooks; one end shall be attached to the shore and the other end thereof shall be anchored to the bottom; it shall not be lawful for one person to own or operate more than one such line; nothing but dead bait shall be used and no minnows, either dead or alive, shall be used for bait; no fish other than the kind mentioned in section 254 of the Conservation Law shall be taken with such lines.

II.

TAKING MINNOWS FOR BAIT FOR SALE.**Bond.**

19. Each application for a license to take minnows for bait for sale shall be accompanied by a satisfactory bond in the penal sum of two hundred dollars, signed by the applicant and two sufficient sureties.

20. Black bass, maskalonge, white fish, pickerel, pike, pike-perch, lake trout, striped bass, yellow perch, shad and bullheads, taken in a net used to take minnows for bait shall be immediately returned to the water uninjured.

No net more than twenty-five feet long shall be used for taking minnows for the owner's personal use.

III.

BUYING AND SELLING TROUT ARTIFICIALLY PROPAGATED.**Lease of
tagging
device
and rental.**

21. The Commission will lease to each applicant to whom a permit is issued to engage in the business of propagating and selling trout raised in a private hatchery, a device to be used in tagging the trout. No device other than the one so furnished shall be used for this purpose. Each applicant shall pay to the Commission as and for rental of said machine for the first year the sum of sixty-five dollars, in advance, and the sum of one dollar

each year thereafter. At the expiration of said permit the applicant shall return said machine to the Conservation Commission, in as good condition as when taken, natural wear and tear excepted.

**Tags and
fees.**

22. The Commission will furnish to each person to whom a permit is issued metallic tags inscribed with the letters "N. Y. S. C. C." Each applicant shall pay to the Commission for said tags the sum of one cent each. Only tags so furnished shall be used; no tag shall be used more than once.

[As amended June 28, 1916.]

**Sale of
trout.**

23. Artificially propagated trout not less than six inches long may be sold for consumption, at any season of the year, under said permit, provided one of said metallic tags is firmly attached to each trout. The sale of wild trout is prohibited at all times.

Any person holding a permit as aforesaid may sell, exchange or give away at any season of the year, for the purpose of propagation or exhibition, any live trout propagated by him.

Live trout for propagation purposes only, may be transported when accompanied by a permit issued by the Commission and not otherwise.

**Marking
packages.**

24. Before any trout are shipped or transported the package in which the same are contained must have affixed thereto a tag on which shall be plainly marked the number of pounds and kind of trout contained therein, together with the name and address of the

consignee and the consignor, the initial point of billing and the point of destination.

Right to have trout for consumption. 25. Any person may buy, sell or have in possession for sale for use as food at any season of the year, a trout artificially propagated and kept, provided that such trout is not less than six inches long and provided also that the same is tagged as hereinbefore provided. The tag shall be removed only by the consumer, and when removed shall be destroyed.

Reports. 26. Every person receiving a permit as aforesaid, to propagate and keep trout, shall make a written report to the Commission on or before December thirty-first of each year, stating the number and variety of trout sold or exchanged, or given away for use as food, or for propagation or exhibition during the preceding year.

IV.

PROPAGATION AND SALE OF FUR-BEARING ANIMALS.

Bond. 27. Each application for a license to engage in the business of propagation and sale of fur-bearing animals shall be accompanied by a satisfactory bond to the People of the State in the penal sum of five hundred dollars, conditioned that the applicant will not keep such fur-bearing animals which are taken wild during the close season for such fur-bearing animals and will not dispose of such fur-

bearing animals in any way during the close season; that he will observe all of the prohibitions, restrictions and conditions imposed by the terms of the license to be issued and the provisions of section 200 of the Conservation Law.

28. If said bond is approved, and

Approval of upon payment to it of a fee of five
bond, and fee. dollars, the Commission shall issue to

the applicant a license permitting him

to keep fur-bearing animals under the provisions of said section for one year from a time therein stated, but no such license shall be issued to take effect during the close season.

Renewal of
license.

In order to authorize the continu-
ance of such licenses thereafter, the

licensee shall renew said bond annu-

ally, and the fee for renewal of license shall be five dollars.

Construction.

29. No person purchasing fur-bear-
ing animals from such licensee shall

have them in possession during the close season, even though purchased during the open season, unless such person shall have a license under section 200 of the Conservation Law.

Penalty.

30. Any person violating the pro-
visions of such bond, any rule or

regulation of the Commission or any of the provisions of section 200 of the Conservation Law shall forfeit his license and shall be denied the privilege of giving another bond.

[As amended April 27, 1914.]

V.

POSSESSION OF VENISON.

Application. 31. Applications for a license to possess venison during any calendar year, pursuant to the provisions of section 191 of the Conservation Law, must be made and the license granted on or before November 20.

The applicant shall at the time of filing his application for a license pay to the Commission a license fee of one dollar, and such license shall be granted only to a person holding a hunting and trapping license.

A license shall permit the person killing the deer to possess the same for consumption and not otherwise, from November 21 to February 1, both inclusive, provided that said deer or venison shall be tagged as follows:

Each quarter of said deer shall be tagged with a tag to be furnished by the Commission.

The Commission will also furnish with the license duplicate coupons which shall be filled out, signed and sworn to by the licensee; one coupon shall be attached to the deer and one coupon shall be filed with the Commission on or before November 24th of the same year; the tags shall be fastened and locked to each quarter and the coupon attached to said deer on or before November 24th next succeeding the date of killing.

[As amended Nov. 20, 1913, and April 1, 1914 and June 20, 1916.]

VI

Importation **32.** An importation license, pursuant
 license. to the provisions of section 178,
 subdivision 4, of the Conservation
Law, may be issued upon application at any time.
Such license shall expire on the thirty-first day of
December following the date of issue. A fee of one
dollar (\$1.00) shall be charged for such license.
Adopted June 23, 1916.

VII

Regulations **33.** Black and mallard ducks
 with respect raised under a breeders' license pur-
 to the sale of suant to the provisions of section
 domesticated 372 of the Conservation Law and
 black and killed by shooting during the open
 mallard ducks season for wild waterfowl may be
 sold at any time, provided permis-
 killed by sion in writing so to do shall first
 shooting. have been obtained from the Com-
 mission, and further provided:

(1) That said black and mallard ducks shall have been marked or tagged by a representative of the Commission before being killed. The marks or tags used are to be furnished by the Commission at a charge of one cent each.

(2) That said black and mallard ducks be also tagged pursuant to the provisions of said section 372, subdivision 3, thereof, during the said open season for wild waterfowl.

Adopted June 23, 1916.

**Amending or
abrogating
rules.**

34. The Conservation Commission reserves the right to alter, amend, or abrogate any or all of the foregoing rules and regulations, and may adopt new ones at any time as the Commission may deem expedient. Nothing contained in any of these rules and regulations shall be construed as compelling the issuing of a license to any person nor to prevent the revoking of such license at any time.

Penalties.

35. Any person who shall violate any of these rules shall be subject to the penalties imposed by provisions of the Conservation Law in relation to fish and game.

Construction.

No license or permit issued by the Commission under Article 5 of the Conservation Law shall be deemed to authorize the licensee, or person to whom such a permit is issued, to trespass upon any private lands, or to do any injury thereto, or to exclusively occupy any land owned by the State, including lands under water, or to exclusively use any public waters of the State.

UNITED STATES STATUTES.

FEDERAL LAWS REGULATING INTERSTATE COMMERCE IN GAME.

THE LACEY ACT.

Ch. 553.—AN ACT to enlarge the powers of the department of agriculture, prohibit the transportation by interstate commerce of game killed in violation of local laws, and for other purposes. (31 Stat., 187.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the duties and powers of the department of agriculture are hereby enlarged so as to include the preservation, distribution, introduction, and restoration of game birds and other wild birds. The secretary of agriculture is hereby authorized to adopt such measures as may be necessary to carry out the purposes of this act and to purchase such game birds and other wild birds as may be required therefor, subject, however, to the laws of the various states and territories. The object and purpose of this act is to aid in the restoration of such birds

in those parts of the United States adapted thereto where the same have become scarce or extinct, and also to regulate the introduction of American or foreign birds or animals in localities where they have not heretofore existed.

The secretary of agriculture shall from time to time collect and publish useful information as to the propagation, uses, and preservation of such birds.

And the secretary of agriculture shall make and publish all needful rules and regulations for carrying out the purposes of this act, and shall expend for said purposes such sums as congress may appropriate therefor.

§ 2. Repealed by chapter 321 of the Laws of 1909 of the United States.

§ 3. Repealed by chapter 321 of the Laws of 1909 of the United States.

§ 4. Repealed by chapter 321 of the Laws of 1909 of the United States.

§ 5. That all dead bodies or parts thereof, of any foreign game animals, or game or song birds, the importation of which is prohibited or the dead bodies, or parts thereof, of any wild game animals, or game or song birds transported into any state or territory, or remaining therein for use, consumption, sale, or storage therein, shall upon arrival in such state or territory be subject to the operation and effect of the laws of such state or territory enacted in the exercise of its police powers, to the same extent and in the same manner as though such animals and

birds had been produced in such state or territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise. This act shall not prevent the importation, transportation, or sale of birds or bird plumage manufactured from the feathers of barnyard fowl.

Approved, May 25, 1900.

Ch. 231.—AN ACT to codify, revise and amend the penal laws of the United States. (35 Stat., 1137.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the penal laws of the United States be and they hereby are codified, revised and amended with title, chapters, head notes and sections, entitled, numbered and to read as follows:

CHAPTER 9.

§ 241. The importation into the United States, or any territory or district thereof, of the mongoose, the so called "flying foxes" or fruit bats, the English sparrow, the starling, and such other birds and animals as the secretary of agriculture may from time to time declare to be injurious to the interests of agriculture or horticulture. is hereby prohibited; and all such birds and animals shall, upon arrival at any port of the United States, be destroyed or returned at the expense of the owner.

No person shall import into the United States or into any territory or district thereof, any foreign wild animal or bird, except under special permit from the secretary of agriculture: *Provided*, That nothing in this section shall restrict the importation of natural history specimens for museums or scientific collections, or of certain cage birds, such as domesticated canaries, parrots, or such other birds as the secretary of agriculture may designate.

The secretary of the treasury is hereby authorized to make regulations for carrying into effect the provisions of this section.

§ 242. It shall be unlawful for any person to deliver to any common carrier for transportation, or for any common carrier to transport from any state, territory, or district of the United States, to any other state, territory, or district thereof, any foreign animals or birds, the importation of which is prohibited, or the dead bodies or parts thereof of any wild animals or birds, where such animals or birds have been killed or shipped in violation of the laws of the state, territory, or district in which the same were killed, or from which they were shipped: *Provided*, That nothing herein shall prevent the transportation of any dead birds or animals killed during the season when the same may be lawfully captured, and the export of which is not prohibited by law in the state, territory, or district in which the same are captured or killed: *Provided further*, That nothing herein shall prevent the importation, transporta-

tion, or sale of birds or bird plumage manufactured from the feathers of barnyard fowls.

§ 243. All packages containing the dead bodies, or the plumage, or parts thereof, of game animals, or game or other wild birds, when shipped in interstate or foreign commerce, shall be plainly and clearly marked, so that the name and address of the shipper, and the nature of the contents, may be readily ascertained on an inspection of the outside of such package.

§ 244. For each evasion or violation of any provision of the three sections last preceding, the shipper shall be fined not more than two hundred dollars; the consignee knowingly receiving such articles so shipped and transported in violation of said sections shall be fined not more than two hundred dollars; and the carrier knowingly carrying or transporting the same in violation of said sections shall be fined not more than two hundred dollars.

The above sections 241, 242, 243, 244 take the place of sections 2, 3 and 4 of the Lacey Act.

FEDERAL LAW FOR THE PROTECTION OF MIGRATORY BIRDS.

[37 Stat., 847.]

[Extract from an Act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1914.]

Be it enacted by the Senate and House of Representatives of the United States of America in Con-

gress assembled, All wild geese, wild swans, brant, wild ducks, snipe, plover, woodcock, rail, wild pigeons, and all other migratory game and insectivorous birds which in their northern and southern migrations pass through or do not remain permanently the entire year within the borders of any State or Territory, shall hereafter be deemed to be within the custody and protection of the Government of the United States, and shall not be destroyed or taken contrary to regulations hereinafter provided therefor.

The Department of Agriculture is hereby authorized and directed to adopt suitable regulations to give effect to the previous paragraph by prescribing and fixing closed seasons, having due regard to the zones of temperature, breeding habits, and times and line of migratory flight, thereby enabling the department to select and designate suitable districts for different portions of the country, and it shall be unlawful to shoot or by any device kill or seize and capture migratory birds within the protection of this law during said closed seasons, and any person who shall violate any of the provisions or regulations of this law for the protection of migratory birds shall be guilty of a misdemeanor and shall be fined not more than \$100 or imprisoned not more than ninety days, or both, in the discretion of the court.

The Department of Agriculture, after the preparation of said regulations, shall cause the same to be made public, and shall allow a period of three

months in which said regulations may be examined and considered before final adoption, permitting, when deemed proper, public hearings thereon, and after final adoption shall cause the same to be engrossed and submitted to the President of the United States for approval: Provided, however, That nothing herein contained shall be deemed to affect or interfere with the local laws of the States and Territories for the protection of nonmigratory game or other birds resident and breeding within their borders, nor to prevent the States and Territories from enacting laws and regulations to promote and render efficient the regulations of the Department of Agriculture provided under this statute.

• * * * * •

Approved, March 4, 1913.

PLUMAGE PROVISION IN THE TARIFF ACT OF 1913.

[38 Stat., 148, 155.]

Ch. 16.—AN ACT to reduce tariff duties and to provide revenue for the Government, and for other purposes.

Paragraph 347. Feathers and downs, on the skin or otherwise, crude or not dressed, colored, or otherwise advanced or manufactured in any manner, not specially provided for in this section, 20 per centum ad valorem; when dressed, colored, or otherwise advanced or manufactured in any manner, and not suitable for use as millinery ornaments, including quilts of down and manufactures of down, 40 per centum ad valorem; artificial or ornamental feathers suitable for use as millinery ornaments, artificial and ornamental fruits, grains, leaves, flowers, and stems or parts thereof, of whatever material composed, not specially provided for in this section, 60 per centum ad valorem; boas, boutonnieres, wreaths, and all articles not specially provided for in this section, composed wholly or in chief value of any of the feathers, flowers, leaves, or other material herein mentioned, 60 per centum ad valorem: *Provided,*

That the importation of aigrettes, egret plumes or so-called osprey plumes, and the feathers, quills, heads, wings, tails, skins, or parts of skins, of wild birds, either raw or manufactured, and not for scientific or educational purposes, is hereby prohibited; but this provision shall not apply to the feathers or plumes of ostriches, or to the feathers or plumes of domestic fowls of any kind.

Paragraph 227. Venison, and other game, 1½ cents per pound; game birds, dressed, 30 per centum ad valorem.

Free List:

Paragraph 478. Eggs of poultry, birds, fish, and insects (except fish roe preserved for food purposes): *Provided, however,* That the importation of eggs of game birds or eggs not used for food, except specimens for scientific collections, is prohibited: *Provided further,* That the importation of eggs of game birds for purposes of propagation is hereby authorized, under rules and regulations to be prescribed by the Secretary of the Treasury.

Paragraph 416. Birds and land and water fowls, not specially provided for in this section.

MIGRATORY BIRD LAW.

Differences between Federal Migratory Bird Regulations and New York State Conservation Law.

The open season for waterfowl, including geese, brant, swan and river and sea ducks (anatidae) in this State is:

- (a) By Federal regulation, September 16 to December 31 inc.

Exception: Long Island, October 1 to January 15, inc.

Woodduck and swan, no open season until September 1, 1918.

- (b) By New York statute, September 16 to January 10 inc.

Exception: Long Island, October 1 to January 10 inc.

Woodduck and swan, no open season.

The open seasons for rails, American coots, mud hens and gallinules (rallidae) in this State are:

- (a) By Federal regulation:

1. Coots and gallinules, September 16 to December 31 inc.

Exception: Long Island, October 1 to January 15 inc.

2. Sora and other rails, (excluding coots and gallinules), September 1 to November 30 inc.

(b) By New York State statute:

1. Rails, American coots, mud hens and gallinules, September 16 to December 31 inc.

The open season for shore birds (limicolae) in this State is:

(a) By Federal regulation:

1. Woodcock, October 1 to November 30 inc.
2. Black-breasted and golden plover and greater and lesser yellow legs, August 16 to November 30 inc.
3. Jack snipe or Wilson snipe, September 16 to December 15 inc.
4. Curlew and other shore birds not specifically mentioned above, no open season until September 1, 1918.

- (b)
1. Woodcock, October 1 to November 15 inc.
Exception: Long Island, October 15 to November 30 inc.
 2. Shore birds: snipe, plover, surf birds, sandpipers, tattlers and curlews, September 16 to November 30 inc.
Exception: Long Island, August 1 to November 30 inc.

Note: Federal regulations are subject to change subsequent to date of this publication.

'PART II.

COURT PROCEDURE.

UNDER THE

CONSERVATION LAW, AS AMENDED BY CHAPTER 444, LAWS OF 1912.

§ 26. Actions for penalties. Actions for penalties for violations of any provision of this chapter shall be in the name of the "People of the State of New York;" and must be brought on the order of the commission, and may be compromised, settled and discontinued as provided in section nine of this chapter. Such actions, if in justices' courts, may be brought in any town of the county in which the penalty is incurred, or, if the defendant resides in another county, in any town of the county in which the defendant resides.

§ 27. Costs in actions by the people. In case of recovery of any amount in an action brought for a penalty under this chapter or in any action authorized by this chapter, in any court of record the people shall be entitled to recover full costs, of course, and at the rates as provided for by section

thirty-two hundred and fifty-one of the code of civil procedure, together with witnesses' fees and other disbursements.

[As amended by chapter 554, Laws of 1915.]

§ 28. **Judgments; how enforced.** Judgments recovered under this chapter may be enforced by execution against the person as provided by the code of civil procedure. A person taken into custody upon such an execution shall not be admitted to the liberties of the jail and shall be confined for not less than one day, and at the rate of one day for each dollar of the amount of the judgment recovered. No person shall be imprisoned more than once, or for more than six months on the same judgment. Imprisonment shall not operate to satisfy a judgment.

§ 29. **Proceeds of actions under article; five—moieties.** Moneys received in an action for a penalty brought under article five of this chapter, or upon the settlement or compromise thereof, and fines for violations of any of the provisions of said article shall be paid within thirty days after the receipt thereof to the commission. The commission shall apply so much thereof as may be necessary to the payment of the expenses of collection and shall pay one-half of the balance, in cases brought by special game protectors, to the special game protector upon whose information the action was brought. Regular protectors shall not receive moieties. The commission in its discretion may settle or compromise any action to recover any penalty provided for in said

articles, or a cause of action therefor, at such sum as it may deem advantageous to the state. The commission may, out of moneys arising from such fines or penalties, pay the fees of magistrates and constables for services performed in criminal actions brought upon information of a game protector, district forest ranger, forest ranger or firewarden.

[As amended by chapter 521, Laws of 1916.]

§ 30. Proceeds of actions under article four. Moneys received in actions for penalties brought under article four of this chapter shall be paid to the commission, who shall apply so much thereof as may be necessary to the payment of the expenses of collections. The balance of such receipts shall be available for enforcing the various provisions of law for the protection of forests against fire.

§ 31. Jurisdiction of courts in criminal cases. Subject to the power of removal provided in the code of criminal procedure, courts of special sessions and police courts shall have, in the first instance, jurisdiction of offenses committed under this chapter, within their respective counties. A warrant shall be returnable before the magistrate issuing the same. And, for the purpose of this chapter only, the jurisdiction of the courts mentioned in this section is extended as to misdemeanors to permit the imposition of the fines and sentences authorized by this chapter.

§ 32. Punishment for misdemeanor. A person convicted of a misdemeanor under this chapter, except

as otherwise provided herein, shall be punished by a fine of not less than ten dollars nor more than one hundred dollars; and if such fine is not paid, he shall be imprisoned in a county jail or penitentiary until such fine is satisfied; which imprisonment shall be at the rate of one day for every dollar of such fine; if any person be convicted a second time of a misdemeanor under this chapter, except as otherwise provided herein, he shall be punished either by a fine of not less than twenty-five dollars nor more than one hundred and fifty dollars; or by imprisonment in a county jail or penitentiary for not more than one hundred days, or by both such fine and imprisonment; if a fine imposed be not paid, he shall be imprisoned in a county jail or penitentiary until such fine is satisfied, which imprisonment shall be at the rate of one day for every dollar of such fine; if a person shall be convicted a third time of a misdemeanor under this chapter, unless otherwise provided herein, he shall be punished by imprisonment in a county jail or penitentiary for not less than ten days nor more than six months; and by a fine of not less than ten dollars nor more than one hundred dollars; and if the fine imposed be not paid, he shall be imprisoned in a county jail or penitentiary until such fine is satisfied; which imprisonment shall be at the rate of one day for every dollar of such fine and shall be in addition to the prison sentence.

[As amended by chap. 92, Laws of 1914, and chap. 521, Laws of 1916.]

§ 33. Rules and regulations; violations of, a misdemeanor. Rules and regulations established by the commission for the enforcement of the provisions of article four of this chapter shall be entered by the commission in its book of minutes and at least three copies thereof posted in public places in the towns in which such rules and regulations apply, at least thirty days before the same shall take effect.

Any person who violates any provision of any rule or regulation so established by the commission, pursuant to the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed one hundred dollars or imprisonment for not more than thirty days or by both such fine and imprisonment.

§ 34. Search warrants; when issued. Any justice of the peace, police justice, county judge, judge of a city court or magistrate having criminal jurisdiction shall, if it appear probable that fish, birds, or game taken or possessed contrary to the provisions of article five of this chapter are concealed, issue a search warrant for the discovery thereof, in accordance with the practice provided in title two of part six of the code of criminal procedure, so far as the same are applicable thereto.

§ 35. Witnesses not excused from testifying. No person shall be excused from testifying or producing any books, papers or other documents in any civil or criminal action, or proceeding taken or had under this

chapter, upon the ground that his testimony might tend to convict him of a crime, or to subject him to a penalty or forfeiture. But no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which he shall, under oath, have testified or produced documentary evidence, and no testimony so given or produced shall be received against him upon any criminal investigation or proceeding; provided, however, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony. Nothing herein contained is intended to give, or shall be construed as in any manner giving, unto any corporation, immunity of any kind.

§ 36. **Compromise of civil penalty before magistrate.** Any regular or special game protector, fisheries protector, fire superintendent, forest ranger or inspector, who shall charge a person with any violation under this chapter, may take such person before any magistrate in the county where the violation occurred, and thereupon such person may, upon the consent of the representative of the conservation commission making the charge, compromise and settle his liability for civil penalties under this chapter, for an amount agreed upon between said magistrate, the representative of the commission and the person charged with such violation, which amount shall not be less than ten dollars nor more than the amount for which such person would be liable in a civil

action for penalties. If such compromise be made, such person shall forthwith subscribe his name to a statement setting forth concisely the facts constituting such violation, the amount agreed upon, and that a judgment may be entered against him for that sum. Upon said statement being sworn to before and filed with said magistrate, he shall forthwith enter in his civil docket a record of the proceedings and the amount of the judgment.

Said justice shall upon the entry of such judgment be entitled to a fee of one dollar to be paid by the person charged with such violation.

A judgment entered as provided herein may be enforced by an execution against the property of the defendant; but no body execution shall issue thereon. Such judgment shall be a bar to a criminal action for the same violation, if satisfied within thirty days from the date of the entry thereof.

[Added by chap. 521, Laws of 1916.]

GENERAL REGULATIONS COVERING THE USE OF STATE LANDS.

The following rules and regulations are of general application to the State land under the jurisdiction of the Conservation Commission, and are to govern all of those who make use of this land. Regulations of special or local application may be adopted from time to time:

1. No fires except for cooking, warmth or smudge purposes are permitted. No fire shall be lighted until all inflammable material is removed to prevent its spread.

2. Lighted matches, cigars, or cigarettes or burning tobacco must not be deposited or left where they may cause fires.

3. No official sign posted or structure maintained under permit shall be defaced. Peeling of bark or injuring trees is prohibited. Dead or down wood may be used for fuel by temporary campers.

4. Camps and adjacent grounds must be maintained in a clean and sanitary condition. Garbage and refuse must be either buried, removed or burned. Waste materials must not be thrown into the waters, or waters polluted.

5. Each camper on islands of Lake George, St. Lawrence Reservation or other much frequented

places, must provide a plentiful supply of chloride of lime and dirt, for disinfecting and covering any latrine used by him. All latrines must be cleaned and the contents burned or buried at frequent intervals, in such manner as to prevent offensive odors, and above all to **AVOID POLLUTION OF THE WATER SUPPLY.**

6. Canvas tents without platforms for use during short periods may be placed without a permit, but not in a trail or within 150 feet of any spring used for water supply.

7. No tents (except those described under rule 6) or wooden structures shall be erected, or maintained, except under written permission. Tar paper shall not be used, except for roofs of open camps erected under a permit. Structures erected under (a), (b) or (c) become the property of the State. The structures for which permits may be granted are as follows:

(a) Open camps for transient use not to be occupied by the same person or persons more than three nights in succession or more than ten nights in any year.

(b) Open camps for use of campers, hunters or fishermen may be occupied for reasonable periods.

(c) Permanent tent platforms for summer camping purposes. Permit granted to use while occupied in good faith. Platform to be left for future use. When not in use permits may be given others to use.

(d) Temporary tent platforms for summer camping. The platform to be erected and removed simultaneously with the tent.

(e) Portable canvas houses for summer camping.

8. No one may claim any particular site from year to year or the exclusive use of the same.

9. The use of the forest preserve or the improvements thereon for private revenue or commercial purposes is prohibited.

10. Any unoccupied tent or structure may be removed by the Commission.

11. At St. Lawrence Reservation, where fireplaces are provided, fires must not be kindled elsewhere, nor shall tents on these islands be pitched less than 200 feet from any public fireplace or boat landing.

12. No boat is entitled to the exclusive use of any dock built by the State. There must be free access for boats at all times.

13. Dancing in any building erected by the State is prohibited.

14. All campers will be held responsible for compliance with these rules, and any person responsible for injury of State property will be held liable for damages and penalties.

CONSERVATION LAW.

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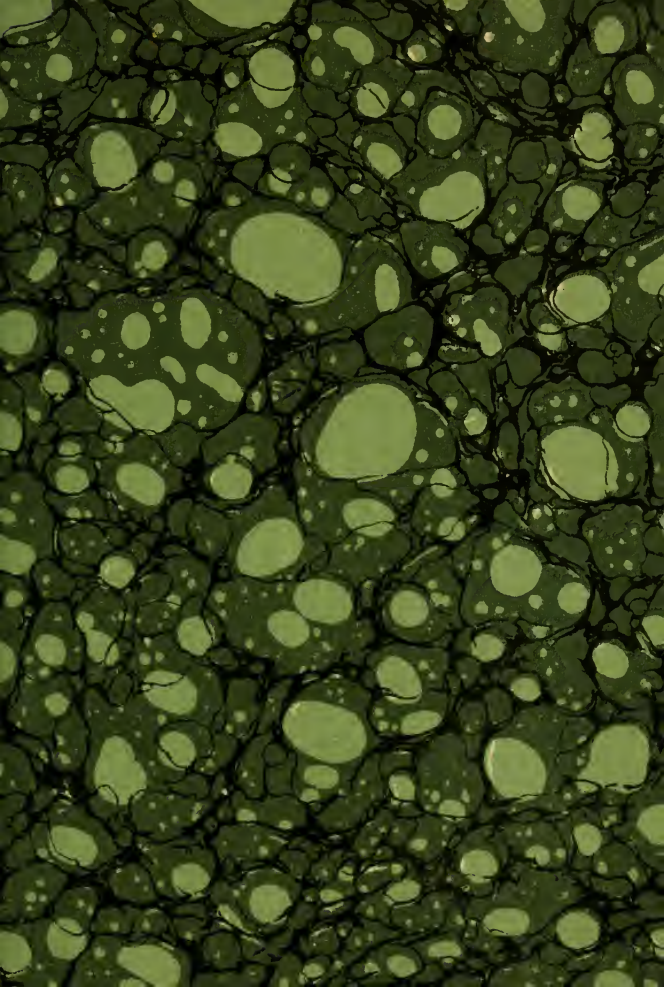
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